

1 IN THE UNITED STATES DISTRICT COURT

2

3 FOR THE WESTERN DISTRICT OF WISCONSIN

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7 GARY SUOJA, Individually and as)

8 Special Administrator for the)

9 Estate of OSWALD F. SUOJA,)

10 Deceased,)

11) No. 3:99-cv-00475-bbc

12 Plaintiff,)

13)

14 vs.)

15)

16 OWENS-ILLINOIS, INC.,)

17)

18 Defendant.)

19

20

21 VIDEOTAPED DEPOSITION OF GARY E. SUOJA

22

23 June 26, 2015

24

25 Seattle, Washington

	Page 2	Page 4
1	APPEARANCES	
2	For the Plaintiff (via teleconference):	
3	Robert G. McCoy, Esquire Cascino Vaughan Law Offices 220 South Ashland Avenue Chicago, Illinois 60607 312.944.0600 312.944.1870 Fax bmccoy@cvlo.com	
4		1 EXHIBIT INDEX (Continuing)
5		2 EXHIBIT NO. DESCRIPTION PAGE NO.
6		3 Exhibit No. 8 E-mail from Gary E. Suoja to 181 Bob G. McCoy dated 12/18/14.
7		4 Exhibit No. 9 Special Administration - 191 5 Order of Discharge; Special 6 Administration - Petition for 7 Discharge; Notice of Summary 8 Procedures Deadline; Notice 9 to Close Estate; Letters of 10 Special Administration; 11 Special Administration - 12 Order Appointing Special 13 Administrator; Special 14 Administration - Petition.
10		15 Exhibit No. 9A Special Administration - 193 16 Petition for Discharge.
11		17 Exhibit No. 10 Order of Barbara B. Crabb, 196 18 District Judge.
12		19 Exhibit No. 11 Collection of photograph 243 20 copies.
13		21
14		22
15		23
16		24
17		25
	Page 3	Page 5
1	EXAMINATION INDEX	
2	EXAMINATION BY: PAGE NO.	
3	Mr. Lee 13	
4	Mr. McCoy 263	
5		1 BE IT REMEMBERED that on Friday,
6	EXHIBIT INDEX	2 June 26, 2015, at 2100 Alaskan Way, Seattle,
7	EXHIBIT NO. DESCRIPTION PAGE NO.	3 Washington, at 10:27 a.m., before JOHN M.S. BOTELHO,
8	Exhibit No. 1 Owens-Illinois, Inc.'s 5 Amended Notice of Deposition of Gary Suoja.	4 Certified Court Reporter, appeared GARY E. SUOJA, the 5 witness herein;
9		6 WHEREUPON, the following 10 proceedings were had, to wit: 11 <<<<< >>>>>>
10	Exhibit No. 2 Notice of Service, 66 Plaintiff's Responses to 11 Owens-Illinois Interrogatories 5-28-15, 12 Plaintiff Response to Owens-Illinois Requests for 13 Production 5-28-15.	12 (Exhibit No. 1 marked for identification.)
14	Exhibit No. 3 Plaintiff's First Response to 116 Standard Interrogatories - 15 6/20/12.	13 THE VIDEOGRAPHER: We are on 14 record. My name is Dan Bassett. I am the 15 videographer here today for Golkow Technologies. 16 Today's date is June 26, 2015. Time now is 10:27 17 a.m. This video deposition is being held in Seattle, 18 Washington, in the matter of Suoja vs. 19 Owens-Illinois, Incorporated, for the United States District Court, Western District of Wisconsin. The 20 deponent is Gary Suoja.
21	Exhibit No. 4 Report Pursuant to 123 Administrative Order No. 12; physician's report from Alvin J. Schonfeld, D.O.; surgical pathology report; routine cytology; certificate of death; Settlement Report as of 2/3/2010.	21 Counsel, please identify yourselves for the record, and then our court reporter, John Botelho, 22 will swear in the witness.
22	Exhibit No. 4A Settlement Report as of 124 2/3/2010.	23 MR. LEE: This is Josh Lee on behalf of Owens-Illinois.
23	Exhibit No. 5 Declaration of Gary Suoja. 138	24 MR. McCOY: Bob McCoy for the
24	Exhibit No. 6 Declaration of Robert McCoy. 160	
25	Exhibit No. 7 E-mail string with subject 176 "Viola & Suoja" dated 12/18/14.	

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<p>1 plaintiffs.</p> <p>2</p> <p>3 GARY E. SUOJA, having been first duly sworn</p> <p>4 by the Certified Court</p> <p>5 Reporter, deposed and</p> <p>6 testified as follows:</p> <p>7 MR. LEE: Bob, I thought you had</p> <p>8 something you wanted to put on the record.</p> <p>9 MR. McCOY: Okay. Yes. Today, if</p> <p>10 there are objections concerning the attorney/client</p> <p>11 privilege that are being made, there -- for the</p> <p>12 purpose of the communications except those which</p> <p>13 relate to the narrow issue of the enforcement of the</p> <p>14 alleged agreement for settlement of \$150,000, and as</p> <p>15 to that issue as we've already stated in the filings,</p> <p>16 that the privilege is waived and that can be the</p> <p>17 subject of discovery.</p> <p>18 MR. LEE: Well, Bob, then I have a</p> <p>19 question about that. You have filed a motion for</p> <p>20 protective order and have not produced several</p> <p>21 documents related to the settlement. Those</p> <p>22 documents, as I understand it, are not here in the</p> <p>23 room with us today.</p> <p>24 Are you still asserting a privilege with regard</p> <p>25 to those documents?</p>	<p>1 THE WITNESS: Okay.</p> <p>2 THE VIDEOGRAPHER: Going off</p> <p>3 record. The time now is 10:30 a.m.</p> <p>4 (Pause in proceedings from</p> <p>5 10:30 a.m. to 10:44 a.m.)</p> <p>6</p> <p>7 THE VIDEOGRAPHER: Back on record.</p> <p>8 Time now is 10:44 a.m.</p> <p>9 MR. LEE: Bob, there's something</p> <p>10 you wanted to put on the record following our prior</p> <p>11 discussion?</p> <p>12 MR. McCOY: Yes. I'm sending now</p> <p>13 the redacted copy of the e-mail from December 18th</p> <p>14 that Gary Suoja sent to me, subject to the same</p> <p>15 provisions about the attorney/client privilege that</p> <p>16 I've already put on the record, that it's only for</p> <p>17 the purpose of the limited waiver as to the</p> <p>18 enforcement of the agreement.</p> <p>19 MR. LEE: And so, Bob -- sorry.</p> <p>20 Was there something else that you wanted to add?</p> <p>21 MR. McCOY: No, I think that's all</p> <p>22 I wanted to say. You should be getting the e-mail in</p> <p>23 a minute or two here. I'm just about to hit the</p> <p>24 "send" button.</p> <p>25 MR. LEE: Okay. And so we</p>
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<p>1 MR. McCOY: Well, yes. As</p> <p>2 explained in the motion.</p> <p>3 MR. LEE: Okay.</p> <p>4 MR. McCOY: The privilege as to --</p> <p>5 as to the forces of those documents that would not</p> <p>6 relate to the settlement part, that's still being</p> <p>7 asserted.</p> <p>8 MR. LEE: But, Bob, you haven't</p> <p>9 even produced redacted forms of those documents. So</p> <p>10 if the privilege is waived with regard to the non --</p> <p>11 to the parts of it that aren't at issue, you still</p> <p>12 have not produced documents that are relevant for the</p> <p>13 purposes of this deposition today.</p> <p>14 So now as I understand it, you're asserting</p> <p>15 privilege that's not going to allow us to complete</p> <p>16 this deposition today, and yet you're here admitting</p> <p>17 that it's been waived. So I don't see how we're</p> <p>18 going to be able to complete the deposition today</p> <p>19 until we get those documents.</p> <p>20 MR. McCOY: You know, let me talk</p> <p>21 to Gary on this briefly. If he can step out.</p> <p>22 MR. LEE: That's fine. Let's go</p> <p>23 ahead and go off the record.</p> <p>24 MR. McCOY: Call me on the cell</p> <p>25 phone, Gary.</p>	<p>1 discussed this slightly before, Bob. I also wish to</p> <p>2 put on the record that we are dismayed that we're</p> <p>3 here. I've come all the way to Seattle for this</p> <p>4 deposition. You have filed a motion for protective</p> <p>5 order, asserting that the whole documents were</p> <p>6 privileged. You have not until this moment provided</p> <p>7 us with any of the communications, the content, or</p> <p>8 the actual communications, themselves, either in</p> <p>9 whole or redacted.</p> <p>10 You've asked for in camera review. You've asked</p> <p>11 for the documents not to be provided to us. And</p> <p>12 you've asserted that they're privileged in whole.</p> <p>13 Now we get here today. I do not have the documents.</p> <p>14 We're prepared for a deposition, and you say that</p> <p>15 you're going to provide them with a limited waiver.</p> <p>16 Of course we'll get a redacted version which won't</p> <p>17 tell us at all whether any of the portion that has</p> <p>18 been redacted is relevant to this issue.</p> <p>19 And we do not agree that the only communications</p> <p>20 that are relevant here with regard to the settlement</p> <p>21 issue are those communications that surround the</p> <p>22 December 18th conversation. You guys have put in and</p> <p>23 you have -- as you know, Mr. Cascino agreed to a</p> <p>24 settlement on behalf of the estate. You have now</p> <p>25 suggested that he did so without authority from the</p>

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<p>1 estate. And that puts at issue the whole issue of 2 how Mr. Cascino or Cascino Vaughan Law Offices gets 3 authority for the estate, whether they've ever had 4 authority from the estate, what conversations were 5 had about the authority, what conversations were had 6 about the settlement, and everything there has been 7 put at issue.</p> <p>8 There can be no limited waiver when a party, on 9 their own behalf, voluntarily puts their attorney's 10 conduct at issue. That's exactly what we've got 11 here, and we do not agree to a limited waiver. So 12 regardless of any offer you make, I'm not agreeing 13 that we won't terminate at the end of this and still 14 come back to ask further questions. So I just want 15 to be sure we're clear on that.</p> <p>16 MR. McCLOY: Right. Well, your 17 comments are noted on the record. And if it's 18 necessary, we'll respond, you know, in a courtroom 19 motion or whatever. So --</p> <p>20 MR. LEE: I agree, Bob. I just 21 want to make sure we're clear going forward. I'm 22 going to terminate at the end, because you're still 23 redacting portions of this and making your own 24 determination as to what's privileged after you and 25 Mr. Suoja and Mr. Cascino have put your conduct at</p>	<p>1 MR. LEE: Okay. I have not entered 2 into an agreement with you on anything, have I, Bob?</p> <p>3 MR. McCLOY: Go ahead with your 4 questions.</p> <p>5 MR. LEE: I just want to make sure 6 we're clear, Bob. Because I've had -- I don't want 7 to get stuck in a situation where you say later on 8 that we have an agreement on anything.</p> <p>9 MR. McCLOY: You have not, during this 10 deposition, entered into any additional agreements. No, 11 Josh, you have not.</p> <p>12 MR. LEE: Okay. Thank you. With 13 that, we'll start. And once I get the documents, 14 I'll take a look at them. And if we can get them 15 printed off, we'll use them. If we can't get them 16 printed off, then we still may have to come back and 17 deal with it later.</p> <p>18 THE WITNESS: Well, as I said, 19 it'll probably take me an hour, hour and a half, and 20 I can print them off and return them. You've got the 21 room until 5 p.m., I see. So...(Pause.)</p> <p>22 MR. LEE: And I don't know if 23 taking an hour will still give us enough time. So 24 that's the --</p> <p>25 THE WITNESS: Well --</p>
Page 11	Page 13
<p>1 issue. So --</p> <p>2 MR. McCLOY: Like I said, your 3 comments are noted for the record.</p> <p>4 MR. LEE: Right.</p> <p>5 MR. McCLOY: If we need to deal with 6 them further in a courtroom filing, we would.</p> <p>7 MR. LEE: And I just want to make 8 sure we're not going to see anything in a courtroom 9 filing that you and I had any agreement whatsoever 10 about what impact you producing these documents today 11 will have on our ability to seek further information 12 and come back for a second deposition if necessary. 13 Because we have no such agreement, correct?</p> <p>14 MR. McCLOY: I -- you know, I guess, 15 as you say, we don't have such agreement, then that 16 sounds all right with me. I mean, I -- like I said, 17 I -- subject -- you know, I'm going to reserve, until 18 a court filing, any comments I have with what you 19 said on the record here today.</p> <p>20 MR. LEE: Well, I'm just making 21 clear, Bob. You and I have no agreement, and that's 22 your understanding, correct?</p> <p>23 MR. McCLOY: I have no understanding 24 one way or the other. You can go ahead with your 25 questions.</p>	<p>1 MR. LEE: -- issue here.</p> <p>2 THE WITNESS: -- all right.</p> <p>3 MR. LEE: So we'll do what we can 4 to work it out, Mr. Suoja. But we're put in a pretty 5 difficult situation here.</p> <p>6</p> <p>7</p> <p>8 EXAMINATION</p> <p>9 BY MR. LEE:</p> <p>10 Q So all right. Have you ever given a deposition 11 before?</p> <p>12 A Yes.</p> <p>13 Q When was the last time you were deposed?</p> <p>14 A I actually cannot remember. I took a deposition at 15 my divorce. That was in approximately 1995. I gave 16 a deposition in another party's divorce probably in 17 1978, '79. And I think there was another deposition, 18 but I -- very vague memories about it.</p> <p>19 Q You're a lawyer; is that right?</p> <p>20 A That's correct.</p> <p>21 Q Do you conduct depositions yourself?</p> <p>22 A Not for some time. I have in the past.</p> <p>23 Q You understand generally what the purpose of a 24 deposition is?</p> <p>25 A Yes, I do. Generally.</p>

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<p>1 Q All right.</p> <p>2 A Here in Washington.</p> <p>3 Q You actually went to law school in the state of</p> <p>4 Illinois, didn't you?</p> <p>5 A That's correct.</p> <p>6 Q Have you practiced law in any state other than</p> <p>7 Washington?</p> <p>8 A No, I have not.</p> <p>9 Q You were licensed to practice in Illinois, were you</p> <p>10 not?</p> <p>11 A I was licensed to practice in Illinois. I never did</p> <p>12 practice in Illinois.</p> <p>13 Q You're still listed as an inactive member of the</p> <p>14 Illinois Bar, are you not?</p> <p>15 A That's correct. I did that a large number of years</p> <p>16 ago.</p> <p>17 Q And as an inactive member of the Illinois Bar, you're</p> <p>18 also still covered by the Illinois Rules of</p> <p>19 Professional Conduct, are you not?</p> <p>20 A I wouldn't know.</p> <p>21 Q You haven't kept up on your responsibilities under</p> <p>22 the Illinois --</p> <p>23 A I haven't done anything in Illinois since I went</p> <p>24 inactive.</p> <p>25 Q So you understand that you're under oath today,</p>	<p>1 A Yes, I do.</p> <p>2 Q Okay. As you know how this goes, you're doing a</p> <p>3 great job. Thank you for listening to my questions</p> <p>4 before you give your answer. And I'll try and do the</p> <p>5 same. I'll try and let you finish your answer before</p> <p>6 I ask my next question. All right?</p> <p>7 A Okay.</p> <p>8 Q And if you need a break at any time, just let me</p> <p>9 know. As long as there's not a question pending,</p> <p>10 we'll go ahead and take the break then. If there is</p> <p>11 a question pending, I'll ask that you finish your</p> <p>12 complete answer before we take a break. Okay?</p> <p>13 A Well, I assume that that's what you will do. But</p> <p>14 that's subject to Mr. McCoy's comments.</p> <p>15 Q Okay. Do you understand the legal rules that govern</p> <p>16 depositions, including when you need to give an</p> <p>17 answer, and that you can't confer with counsel while</p> <p>18 there's an answer pending, for purposes other than to</p> <p>19 establish a privilege?</p> <p>20 A I -- that I -- that I pretty much understand, yes.</p> <p>21 Q Okay. Can you please state your name for the record?</p> <p>22 A Gary Suoja, S-u-o-j-a.</p> <p>23 Q Who were your parents?</p> <p>24 A My parents were Oswald F. Suoja and Delores A. Suoja.</p> <p>25 Q What year were you born?</p>
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<p>1 correct?</p> <p>2 A That's correct.</p> <p>3 Q You understand that oath is the same oath that you</p> <p>4 would take as if you were testifying in court before</p> <p>5 a judge and a jury?</p> <p>6 A That's correct.</p> <p>7 Q And you understand that that oath means that you will</p> <p>8 tell the truth today, correct?</p> <p>9 A That is correct.</p> <p>10 Q And as part of that oath, you agree not to say</p> <p>11 anything that you don't know to be true, correct?</p> <p>12 A That's correct.</p> <p>13 Q Okay. And as we go through today, you understand</p> <p>14 that I'm going to ask you a series of questions,</p> <p>15 correct?</p> <p>16 A I understand that you will be asking questions and I</p> <p>17 will be answering them.</p> <p>18 Q All right. And it will be important for us that your</p> <p>19 answers be verbal answers as opposed to guttural</p> <p>20 answers like "uh-huh" or "huh-uh." Do you understand</p> <p>21 that?</p> <p>22 A That's correct.</p> <p>23 Q And nodding your head or shaking your head won't</p> <p>24 constitute an answer as well. Do you understand</p> <p>25 that?</p>	<p>1 A I was born in 1944.</p> <p>2 Q And where were you born?</p> <p>3 A I was born in Superior, Wisconsin.</p> <p>4 Q Where did you grow up?</p> <p>5 A I grew up in many places. Raised for a while in</p> <p>6 Superior, Wisconsin, and raised for a while in</p> <p>7 Milwaukee, Wisconsin. I was in Green Bay, Wisconsin.</p> <p>8 We were in Elma. We were near Fargo, North Dakota,</p> <p>9 for a while. Of that, the majority of time that I</p> <p>10 recall was generally in south Milwaukee, at a trailer</p> <p>11 park there. And then I believe it was about the</p> <p>12 start of third grade we moved to Rockford, Illinois.</p> <p>13 And I finished high school in Rockford, Illinois.</p> <p>14 Q So how long were you in Superior?</p> <p>15 A I can't tell you exactly. We moved when I was quite</p> <p>16 young. Probably -- since I started -- I did</p> <p>17 kindergarten near Fargo, North Dakota. I started</p> <p>18 kindergarten there. When we returned to Wisconsin, I</p> <p>19 was still too young to get into first grade, so I had</p> <p>20 to repeat kindergarten. So whatever that was. We</p> <p>21 left Superior, I was four, four and a half, five,</p> <p>22 something.</p> <p>23 Q So you would have left Superior sometime between</p> <p>24 1948, 1950?</p> <p>25 A That's my guess. They didn't consult me, and we</p>

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<p>1 didn't hit a calendar when we left.</p> <p>2 Q I know. I'm just trying to get a general sense.</p> <p>3 And after you -- your family moved out of</p> <p>4 Superior, did you move to Fargo? Was that the next</p> <p>5 place you moved?</p> <p>6 A I think -- I think so. I think we were there until</p> <p>7 about 1950 or 19 -- yeah, probably 1950. '49, '50,</p> <p>8 we were there. And it was on the Minnesota side of</p> <p>9 Fargo. There's another town over there. And we were</p> <p>10 there for a year or more.</p> <p>11 Q Okay. And after you lived in Fargo, where is the</p> <p>12 next place you remember living?</p> <p>13 A The next place that I remember is Milwaukee.</p> <p>14 Q How long were you in Milwaukee?</p> <p>15 A We were there several times. I think we moved to</p> <p>16 Green Bay for about six months in 1951. I started</p> <p>17 first grade. I did kindergarten at Burdick School in</p> <p>18 south Milwaukee. Then we moved to Green Bay, and I</p> <p>19 did -- started first grade there in Green Bay. And</p> <p>20 we were in Green Bay for a minimum of six months.</p> <p>21 And we were still in the small trailer at that point.</p> <p>22 Then we moved back to Milwaukee, and we -- now we're</p> <p>23 living high on the hog. We had a 44-foot trailer.</p> <p>24 Q So you were in Green Bay for about six months. You</p> <p>25 moved back to Milwaukee. How long did you stay in</p>	<p>1 years, somewhere in there.</p> <p>2 Q Okay. So, really, the majority of the time growing</p> <p>3 up, you lived in Rockford; is that right?</p> <p>4 A That's -- that's correct. Finished grade school and</p> <p>5 finished high school in Rockford.</p> <p>6 Q Did you move out of your house when you finished high</p> <p>7 school?</p> <p>8 A No. I -- I would return for -- on holidays and on</p> <p>9 vacation, and I would work in Rockford.</p> <p>10 Q While you were at college?</p> <p>11 A Yes.</p> <p>12 Q And did you return -- continue to return home on</p> <p>13 holidays and vacations all the way through law</p> <p>14 school?</p> <p>15 A No. I was married in 1967. And in the summer of</p> <p>16 '68, we returned to Rockford because I had work</p> <p>17 there. But we lived separate from my parents. We</p> <p>18 had an apartment. And then in '69, we stayed in</p> <p>19 Champaign to study for the bar exam. And then after</p> <p>20 the bar exam and my draft physical, we returned to my</p> <p>21 wife's family's home until I would get my draft</p> <p>22 notice.</p> <p>23 Q Where was your wife's family from?</p> <p>24 A They lived in Wood River, Illinois.</p> <p>25 Q For folks who don't know, what part of Illinois is</p>
Page 19	Page 21
<p>1 Milwaukee that time?</p> <p>2 A We stayed in Milwaukee, so I finished first grade,</p> <p>3 second grade, and probably started third grade before</p> <p>4 we moved to Rockford, Illinois.</p> <p>5 Q So you were only in Milwaukee a total of about three</p> <p>6 years?</p> <p>7 A I would guess so. Maybe a little longer. Maybe a</p> <p>8 little less. I'm not absolutely certain on the</p> <p>9 dates. They weren't terribly important, but I kind</p> <p>10 of considered Milwaukee my home at that point before</p> <p>11 we moved to Rockford.</p> <p>12 Q So maybe three to five years, you were in Milwaukee?</p> <p>13 A Yeah, some -- somewhere like that.</p> <p>14 Q Okay. And then you moved to Rockford. How long did</p> <p>15 your family live in Rockford?</p> <p>16 A From the time I started third grade. So that would</p> <p>17 probably be '53 or '54. And they stayed there while</p> <p>18 I was in -- some point while I was in law school, I</p> <p>19 believe they moved.</p> <p>20 Q So --</p> <p>21 A Didn't tell me either.</p> <p>22 Q What year did you graduate law school?</p> <p>23 A I graduated from law school in 1969.</p> <p>24 Q So your family was in Rockford for about 16 years?</p> <p>25 A That would probably be a good guess. 14, 15, 16</p>	<p>1 Wood River in?</p> <p>2 A Wood River is in the southwest portion, near St. Louis.</p> <p>3 Q You'd mentioned you were in Champaign. Did you go to</p> <p>4 law school at the University of Illinois?</p> <p>5 A I did.</p> <p>6 Q Did you do undergrad at the University of Illinois?</p> <p>7 A I finished my undergrad at the University of</p> <p>8 Illinois.</p> <p>9 Q Where did you start your undergrad?</p> <p>10 A I started in -- at Villanova.</p> <p>11 Q And where is Villanova located?</p> <p>12 A Villanova is located in Villanova, Pennsylvania.</p> <p>13 Q Is there a reason why you switched from Villanova to</p> <p>14 U of I?</p> <p>15 A Yes.</p> <p>16 Q Why is that?</p> <p>17 A They doubled their tuition.</p> <p>18 Q Seems like a good reason.</p> <p>19 A They would not increase my scholarship, and their</p> <p>20 tuition went up to an amount that equaled what my dad</p> <p>21 made annually. So we knew there was no way that we</p> <p>22 could possibly afford that without an increase in</p> <p>23 tuition, so I transferred to University of Illinois.</p> <p>24 Q Okay. What did you study in undergrad?</p> <p>25 A I was a math major at Villanova. When I transferred</p>

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<p>1 to the University of Illinois, I transferred into 2 an -- they call it a James Scholar biology program. 3 It was really meant for people intending to go on in 4 the -- in the biological sciences.</p> <p>5 The reality is, is that half of the group were 6 premed students. And I had a number of people that I 7 knew, including a close neighbor named Dick 8 Cappolitti, who talked me into coming into the 9 program, and so I did, with a view towards eventually 10 going to medical school.</p> <p>11 Q At some point you switched your decision about 12 medical school; is that right?</p> <p>13 A I did. My senior year, as it came time to apply for 14 medical school, I -- I, frankly, had grown tired of 15 dealing with premed students. And I wanted to deal 16 with someone else, and I wanted to avoid the draft. 17 So I decided not to go to medical school. And 18 somebody said, If you go to law school, you can do 19 anything. And I could keep my student deferment. So 20 that was the direction that I went.</p> <p>21 Q So you entered law school at the University of 22 Illinois in what year?</p> <p>23 A That would have been '66, I believe.</p> <p>24 Q Graduated in 1969; is that right?</p> <p>25 A That's correct.</p>	<p>1 Wood River? 2 A That's correct. 3 Q And you said you were awaiting your draft notice. 4 Were you drafted into the military?</p> <p>5 A I received my draft notice while I was in the 6 reception station at Fort Leonard Wood, Missouri. I 7 signed up early, trying to achieve some benefit of 8 going in early. So I took my -- I studied for the 9 bar in the summer of 1969, took the bar exam at 10 Northwestern, something like the 10th, 11th, and 11 12th, and reported for my physical at the Halsted 12 Street station the following day.</p> <p>13 Q What branch of the military did you join?</p> <p>14 A The Army.</p> <p>15 Q How long were you in the Army?</p> <p>16 A I was in the Army from September of '69, and I 17 believe I was released in January of '74 and received 18 the discharge in '76, after six years of service. 19 But I was actually on active duty until '74.</p> <p>20 Q Were you honorably discharged?</p> <p>21 A Yes, I was.</p> <p>22 Q And did you serve in the JAG Corps?</p> <p>23 A Yes. I took basic training at Fort Leonard Wood, 24 Missouri. And after completion of basic training, I 25 had applied for a direct commission. And I passed</p>
<p style="text-align: center;">Page 23</p> <p>1 Q Did you have any specific area of focus while you 2 were in law school?</p> <p>3 A Not really. I tried -- I was very intrigued by trial 4 work. And that was about the time that schools 5 decided to start trying a trial advocacy program. 6 And I was very intrigued by that. But I didn't have 7 any special area of focus.</p> <p>8 Q Did you do any internships or clerkships while you 9 were in law school?</p> <p>10 A No, I did not.</p> <p>11 Q Did you work with any law firms while you were in law 12 school?</p> <p>13 A No, I did not.</p> <p>14 Q Where did you work in the summers during your law 15 school?</p> <p>16 A I generally had two jobs during the summers. I would 17 typically work construction, and I also had started 18 working at the Rockford Clutch Division of 19 Borg-Warner, working in the factory generally on 20 either a drill press or some other mechanical 21 equipment.</p> <p>22 Q After you graduated from law school, you talked about 23 going to get your draft physical; is that right?</p> <p>24 A That's correct.</p> <p>25 Q And then going to live with your wife's family in</p>	<p style="text-align: center;">Page 25</p> <p>1 the bar exam in November of 1969. So once I had 2 passed, I applied for a direct commission. And in 3 January 1 of 1970, or early January of '70, I 4 received a direct commission to captain in the JAG 5 Corps.</p> <p>6 Q Did you see any combat?</p> <p>7 A Did I see any combat? At home or Fort Leonard Wood 8 or what?</p> <p>9 Q Did you see any combat in the field?</p> <p>10 A In the field? I did end up in Vietnam. And I hate 11 to say this, but I don't know what you mean by 12 "combat." Was I actually shot?</p> <p>13 Q Were you a combat soldier?</p> <p>14 A No. I was a JAG officer the entire time.</p> <p>15 Q So you were a lawyer in the military?</p> <p>16 A I was a lawyer in the military.</p> <p>17 Q But you were in a combat zone? You were in Vietnam?</p> <p>18 A I was definitely in a combat zone. I was a bunker 19 commander when I was in the Central Highlands. I 20 would arrange for the arming of the Claymore mines 21 every night. We pulled guard duty. We supervised 22 guard duty. We worked six and a half days a week. 23 And while in the Central Highlands on Sunday 24 afternoons, we went to the firing range, preparing 25 for what appeared to be an imminent attack.</p>

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<p>1 Q And I just -- I'm trying to figure out: You're in 2 the JAG Corps?</p> <p>3 A Mm-hmm.</p> <p>4 Q Your primary duty is to act as a lawyer for the 5 military?</p> <p>6 A That's correct.</p> <p>7 Q But it sounds like you had additional duties as a 8 soldier; is that right?</p> <p>9 A Well, I guess what I could say is, it depended on 10 where you were. When I was originally assigned to 11 Vietnam, my -- I was assigned to Military Region 2, 12 which is the Central Highlands. I was stationed in 13 Nha Trang, which is where the command headquarters 14 was, which is generally what the JAG unit was 15 attached to. During that time, we were on a beach in 16 what was considered a French resort town. And so as 17 far as being in Vietnam, we were living the high 18 life.</p> <p>19 Toward the end of October, which was after about 20 two and a half months or so in country, the command 21 transferred to Pleiku. Pleiku was the opposite of 22 being a resort town. And I was assigned to what was 23 called the MACV compound. That compound was 24 stationed surrounding General Zhu's headquarters. 25 General Zhu was the ARVN or the -- or the Vietnamese</p>	<p>1 them. We were determining, much as people did in 2 basic training, who could fire and who could not. 3 Since this was a headquarters unit, you could see 4 that many of the headquarters types didn't know which 5 end of a rifle the rounds would come out. And so we 6 very carefully selected who was capable of fighting, 7 if necessary, and who wasn't. So --</p> <p>8 Q So you were in a combat zone?</p> <p>9 A There was no doubt that was -- all of Vietnam was a 10 combat zone.</p> <p>11 Q Okay.</p> <p>12 A Everybody could have been hit at any time. We were 13 just in a very pointed combat zone at that point.</p> <p>14 Q All right. So how long were you in Vietnam?</p> <p>15 A 317 days in country. 321 days away from my family.</p> <p>16 Q Okay. So you were in Vietnam for about a year?</p> <p>17 A A little less than a year, yes.</p> <p>18 Q And then where did you serve the rest of your 19 service?</p> <p>20 A I was at Fort Lewis both before and after Vietnam.</p> <p>21 Q So Fort Lewis here in Washington?</p> <p>22 A That's correct.</p> <p>23 Q So what division were you attached to?</p> <p>24 A There were a number of them. While I was in Vietnam, 25 I was with the 4th Infantry Division --</p>
<p style="text-align: center;">Page 27</p> <p>1 Army's commanding general for the Central Highlands. 2 He had a reputation as a drug dealer and a very 3 roguish-type person. He could have done well in 4 Chicago. Let's put it that way.</p> <p>5 So while we were at that MACV compound, when we 6 were in Nha Trang, the general -- come September, 7 there was a local holiday. The general had to order 8 the JAG officers to draw weapons. And we pooh-poohed 9 that. And then we got a very direct order that we 10 were going to draw weapons, and so we did. Put them 11 in our closets and left it at that, and even when 12 there were some sappers that blew up near us that we 13 didn't think too much about it.</p> <p>14 Once we got to Pleiku, things changed a bit, 15 because now we were in an area where, you know, 16 rockets would come in on occasion. We could be in 17 court and hear rockets, and everybody hit the floor 18 and we'd go off the record for a while. And then 19 starting with February of '72, there started to be a 20 rather significant offensive that was coming down. 21 And I ended up having to go to the G2, and so I was 22 getting the reports from the field on what was 23 occurring.</p> <p>24 And at that point, everything changed. So not 25 only did we have weapons; we were practicing with</p>	<p style="text-align: center;">Page 29</p> <p>1 Q Were you?</p> <p>2 A -- typically.</p> <p>3 Q My brother-in-law served with the 4th.</p> <p>4 A Oh. Very interesting.</p> <p>5 Q And it was here at Fort Lewis.</p> <p>6 A Well, that's interesting. Because I was -- I was at 7 Fort Lewis and in the JAG office through '73.</p> <p>8 Q Okay. And so then in '74, '73 or '74, were you 9 stationed someplace else?</p> <p>10 A No. I -- my four-year commitment was up. So I ended 11 up finding a job. And that was during a downturn in 12 the economy here in Washington. So I was fortunate 13 to find a job position as an assistant attorney 14 general with the State of Washington.</p> <p>15 Q Before I move on to that, first of all, let me thank 16 you for your service, sir.</p> <p>17 A Thank you.</p> <p>18 Q So you get this job with the assistant -- as an 19 assistant attorney general here in the state of 20 Washington. What type of work did you do with the 21 Attorney General's Office?</p> <p>22 A I was assigned to the Department of Transportation. 23 So I ended up in kind of an oddball position. The 24 Department of Transportation, majority of the 23, 24 attorneys were assigned to working condemnation cases</p>

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<p>1 as they were finishing out the interstate highway 2 build-out. And I went into kind of an administrative 3 position where I did oddball things.</p> <p>4 And my first assignment was to pick up the Adler 5 case, which was the Clean Air Act portion of an 6 environmental lawsuit on I-90, on the construction of 7 I-90. I helped trying to analyze the environmental 8 aspects of that suit because they were -- they were a 9 fairly new attack on highway construction.</p> <p>10 I also revamped the State's water claims analysis 11 for what would we do -- you know, what is the basis 12 for a water claim and how do we cover that. So I 13 rewrote the bible for the State on that.</p> <p>14 Then I also served as an alternate for the 15 Washington State Highway Commission at the time. 16 That was before the Department of Transportation came 17 on. And did other miscellaneous things. Wrote 18 legislation and so on.</p> <p>19 Then in -- after about a year with the Attorney 20 General's Office, one of the other fellas in that 21 office moved on and went to a prosecutor's office up 22 at Jefferson County. And I took over his position. 23 In that position, I ended up being the attorney 24 assigned to the Washington State Ferries, Washington 25 Toll Bridge Authority, County Road Administration</p>	<p>1 work, and so I still work with two of them. I still 2 work with two or three of the other people that I met 3 out of that. And those have been -- through the 4 years, those have been some of my principal clients 5 through the years.</p> <p>6 Another individual who became chief financial 7 officer for them, he was a mortgage banker that I had 8 met. And we were friends and stayed in contact. And 9 after about four years, one of his new firms he was 10 working with had a conflict with another attorney. 11 And they asked me to represent them. And so I did 12 commercial loan closings with them and with 1st 13 Nationwide Bank for some number of years.</p> <p>14 Q So in 1980, you went into private practice; is that 15 right?</p> <p>16 A That's correct.</p> <p>17 Q Sole proprietorship private practice?</p> <p>18 A Sole proprietor private practice.</p> <p>19 Q Okay. And you did real estate and commercial loan 20 work?</p> <p>21 A Yes. In addition, yes.</p> <p>22 Q Okay. And did you do any other type of work in your 23 private practice?</p> <p>24 A I did occasional condemnation work. I would have -- 25 I would do other transactions for clients who had</p>
<p style="text-align: center;">Page 31</p> <p>1 Board, handled personnel matters and did a number of 2 other things. A majority of my time was taken up by 3 the Washington State Ferries.</p> <p>4 Q How long did you work for the AG's office here in 5 Washington?</p> <p>6 A I worked there until 1977.</p> <p>7 Q After you left the AG's office in '77, what did you 8 next do for employment?</p> <p>9 A I went in-house with a firm called Forest Investment 10 Corporation. Forest Investment Corporation was a 11 firm that developed affordable housing using the USDA 12 515 Rural Rental Housing program.</p> <p>13 Q So it was a real-estate-related job?</p> <p>14 A It was real estate and development related. Build 15 affordable housing in rural areas.</p> <p>16 Q How long were you with Forest Investment?</p> <p>17 A I was with Forest Investment until 1980, when the 18 company pretty much collapsed. And then I went into 19 private practice. And my clients were typically 20 people who had worked at Forest Investment. And 21 I've -- other people that I had met there.</p> <p>22 And also some of the people -- Forest Investment 23 was required to divest itself of certain projects, 24 and a number of people came in to buy those projects. 25 Those people were referred to me to do their legal</p>	<p style="text-align: center;">Page 33</p> <p>1 needs, things that I could handle and didn't refer on 2 to other attorneys.</p> <p>3 Q Okay. Have you been in private practice, solo 4 private practice since 1980?</p> <p>5 A No. I joined the firm of Goddard & Wetherall. That 6 was in about 1990. 1989, '90. It was in '90, '91, 7 or '92. And that was a small group of attorneys in 8 the same building that -- that I was in.</p> <p>9 Q While you were with Goddard & --</p> <p>10 A Goddard & Wetherall.</p> <p>11 Q -- Wetherall --</p> <p>12 A Yeah.</p> <p>13 Q -- did you do the same type of work?</p> <p>14 A Did the same type of work. We just -- we all 15 associated together. And that -- I was with Goddard & 16 Wetherall until about 1997.</p> <p>17 Q Okay. And --</p> <p>18 A And then I decided to go back out on my own.</p> <p>19 Q Okay. And since 1997, have you been in private 20 practice on your own?</p> <p>21 A Yes, I have.</p> <p>22 Q Okay. And since 1997, had you been doing this same 23 type of work, real estate, commercial transactions?</p> <p>24 A That's correct. I no longer do any commercial 25 transactions. That ended about 2001, 2002, with all</p>

<p style="text-align: right;">Page 34</p> <p>1 the bank consolidations. And I -- I stopped doing 2 trial work about that same time.</p> <p>3 Q Okay. That's what I was going to go back and ask. 4 In your real estate practice, did you do trial work 5 related to real estate?</p> <p>6 A Yes, I did.</p> <p>7 Q Okay. Have you ever done any trust and estates work?</p> <p>8 A I -- I have. But usually I've associated other 9 counsel in those cases.</p> <p>10 Q When you say you've associated other counsel, have 11 you ever been responsible to a client in managing 12 their estate or the estate of someone who they were --</p> <p>13 A No.</p> <p>14 Q -- related to?</p> <p>15 A No.</p> <p>16 Q Okay. Have you ever done any trial work related to 17 someone's estate?</p> <p>18 A I don't -- don't believe so.</p> <p>19 Q Okay. Have you ever served as a trustee for 20 someone's estate?</p> <p>21 A Other than my dad's here.</p> <p>22 Q As a lawyer?</p> <p>23 A As a lawyer? No, other than, you know, talking to my 24 mother and -- about, you know, this matter. Other 25 than that -- I take that back. I am a -- I am a</p>	<p style="text-align: right;">Page 36</p> <p>1 summers when you were in college. Did you do any 2 construction work while you were in high school?</p> <p>3 A No. What I did in -- during the high school, I 4 wouldn't consider it a regular job. But I knew -- I 5 knew the people who had built our house, the 6 Lundbergs. And on occasion, they would need some 7 help and I would assist them as a laborer. But I 8 wouldn't consider it construction.</p> <p>9 Later on, Lundberg and Kosleski had a firm going, 10 and they asked that I work with them. And so I 11 would -- I did that. And then shortly after that, I 12 found working at the factory, make more money. And 13 so I ended up generally working two jobs.</p> <p>14 Q So did I hear the name right, Lundberg and Kosiwoski 15 (phonetic)?</p> <p>16 A Kosleski.</p> <p>17 Q Kosleski. Lundberg and Kosleski, what type of 18 contracting business did they have?</p> <p>19 A They were -- they were small contractors. We did 20 everything from single-family homes, replacing roofs 21 on large barns. We did some additions. We did a 22 factory that was a small factory. It was probably 23 5,400 square feet. We -- we built it and did the 24 concrete work.</p> <p>25 The Lundbergs were kind of famous. They did a</p>
<p style="text-align: right;">Page 35</p> <p>1 trustee right now on a trust for one of my long-term 2 clients who is now in failing health. And -- and 3 I've -- he just recently had -- his health had 4 failed, and I -- they realized that I was on -- he 5 was listing me as a trustee.</p> <p>6 So for the interim, I'm there. But my 7 expectation is I will -- I will soon resign that once 8 I -- once the family gets everything stabilized.</p> <p>9 They're still gathering assets and so on.</p> <p>10 Q I want to go back to our discussion earlier about the 11 time when you were in high school. You said you 12 worked summer jobs in Rockford.</p> <p>13 A Mm-hmm.</p> <p>14 Q Is that right?</p> <p>15 A Well, I -- I worked pretty much full-time during high 16 school.</p> <p>17 Q Okay. What type of jobs did you work during high 18 school?</p> <p>19 A I worked as a clerk in a grocery store, Zanocco 20 Brothers grocery store next to the grade school that 21 I attended. And I started out as, you know, just a 22 clerk in 19 -- 1957. And then aside from periods 23 that I played football, and school, I worked there 24 pretty much on a regular basis.</p> <p>25 Q You talked about doing some construction work in the</p>	<p style="text-align: right;">Page 37</p> <p>1 lot of concrete work before -- while it was still 2 manual labor generally. They had just -- they were 3 just starting to use concrete-pumping trucks, and 4 they almost always failed. So I -- I was the nominee 5 to haul concrete in the wheelbarrows.</p> <p>6 Q All right. Done a little bit of that myself. It's a 7 hot job.</p> <p>8 A Very hot job.</p> <p>9 Q When you worked with Lundberg and Kosleski, was that 10 only -- I guess, there was a little bit of work that 11 you did during high school kind of as just a general 12 laborer?</p> <p>13 A Just a -- just a general laborer. Usually 14 short-term. They just needed some help or wanted 15 some pickup, and, you know, pretty -- pretty minimal- 16 type work.</p> <p>17 Q And then once you were in college, though, you did a 18 little bit more work with that; is that right?</p> <p>19 A I did -- I did quite a bit more work with them. And 20 as a matter of fact, one summer that's all that I did 21 is just the construction work. But the factory work 22 offered so much more. And then the construction work 23 was -- it would come and go. So working full-time at 24 the factory allowed more. And I would usually have 25 to work the swing shift, so I'd get up at 8:00 and go</p>

<p style="text-align: right;">Page 38</p> <p>1 to work, work construction until 3 or 4 in the 2 afternoon, when I'd have go in for the swing shift in 3 the factory.</p> <p>4 Q Other than working at Lundberg and Kosleski, did you 5 have any other work in the construction industry?</p> <p>6 A No.</p> <p>7 Q We're here today to talk a little bit about a lawsuit 8 that's been filed on behalf of your father's estate; 9 is that right?</p> <p>10 A That's correct.</p> <p>11 Q Tell me about your dad. What did he -- when was he 12 born?</p> <p>13 A My dad was born in January of 1923.</p> <p>14 Q When were your parents married?</p> <p>15 A They were married in October of 1943.</p> <p>16 Q Do you have any siblings?</p> <p>17 A Yes, I do.</p> <p>18 Q How many siblings do you have?</p> <p>19 A I have an older brother, Derald, who's now passed.</p> <p>20 Q Okay.</p> <p>21 A I have a younger sister, Suzanne, who is about two 22 years younger than I am. And I have a much younger 23 sister, Kimberly.</p> <p>24 Q What year was Derald born?</p> <p>25 A I believe it was 1941.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q Do you know what they made at that factory?</p> <p>2 A I do not recall.</p> <p>3 Q You don't remember what the name of the factory was?</p> <p>4 A No.</p> <p>5 Q Before you all moved to Rockford, did your mother 6 have a job that you recall?</p> <p>7 A Not that I recall. That doesn't mean she didn't have 8 one. I just don't recall.</p> <p>9 Q Sure. What did your dad do for a living?</p> <p>10 A As long as I knew my dad, he was an asbestos worker.</p> <p>11 That's all he did. He was a pipe coverer and -- his 12 entire life.</p> <p>13 Q When you say "asbestos worker," he was an insulator?</p> <p>14 A Well, they call themselves pipe coverers. And that's 15 basically what they would do. And if you want to 16 call them insulators, that's basically the work that 17 they did, was provide insulation on pipes and boilers 18 and where needed.</p> <p>19 Q You use the term "asbestos worker." Was your dad a 20 member of the asbestos workers union?</p> <p>21 A I'm not certain what the name of the union was, but 22 he was a union member.</p> <p>23 Q How did you find out -- why did you use the term 24 "asbestos worker" when you described your dad's job?</p> <p>25 A Because that's -- that's what they call themselves.</p>
<p style="text-align: right;">Page 39</p> <p>1 Q And what year was Suzanne born?</p> <p>2 A I don't remember exactly. She's just slightly more 3 than two years younger than me, so it was probably 4 '40 -- '46. February of '46 would be my assumption.</p> <p>5 Q Sometime between '45 and '47, we'll say?</p> <p>6 A Well, she's a little more than two years younger, so 7 I was born at the tail end of '44. So '45, '46. So 8 it would have been, I guess, '47. February '47.</p> <p>9 Q Okay. And then Kimberly is...?</p> <p>10 A She, I think, was born in '57.</p> <p>11 Q Did your mother have a job while you were growing up?</p> <p>12 A She would -- she would work. She worked as a -- as a 13 waitress when we were in Rockford. She did that for 14 a while. Actually, did that with relatives of the 15 Lundbergs. Then she also worked in a small factory 16 in Rockford while I was going to college. Actually, 17 a little bit before I went to college. She -- while 18 I was in high school, she worked at that factory job.</p> <p>19 Q What type of factory job?</p> <p>20 A It was a -- it -- she ran a small little -- like, a 21 little punch press, you know. So you'd run things 22 through it and punch things out. But it wasn't -- it 23 wasn't a very large shop that she worked in.</p> <p>24 Maybe -- maybe a thousand, 1,500 square feet at most.</p> <p>25 And there were about maybe a dozen employees at most.</p>	<p style="text-align: right;">Page 41</p> <p>1 You know, early on, that's what I remember. Pipe 2 coverer, asbestos worker. I remember both of those.</p> <p>3 Q So your dad knew that he was working with asbestos?</p> <p>4 A Oh, yes. Early on.</p> <p>5 Q You would have been about 14 in 1958; is that right?</p> <p>6 A I turned 14 in 1958.</p> <p>7 Q And have you ever worked as an insulator?</p> <p>8 A I -- I helped my dad a few times.</p> <p>9 Q How old were you?</p> <p>10 A Well, my recollection is, I helped my dad -- he -- 11 once we moved to our house, I believe he insulated 12 the pipes, and that would have been -- we moved to 13 that house in 1957.</p> <p>14 Q That would have been in Rockford?</p> <p>15 A That would have been in Rockford. It was either in 16 late '56 or early '57. And it was one of the first 17 things he did, I believe, is insulated the pipes.</p> <p>18 And then there was another occasion when he 19 was -- he was working on a job in January, and he was 20 having -- there was some big push on the job. And -- 21 and I went to help him out. He just wanted some 22 help. And it was at a hardboard factory. And I 23 would have been probably in high school, is my -- my 24 guess. Maybe a senior in high school or so. So that 25 would have been in the early '60s.</p>

<p style="text-align: right;">Page 42</p> <p>1 And -- and it was where they -- they made 2 cardboard. I want to say Weyerhaeuser, but I can't 3 be sure. And it was January. And they had these big 4 bay doors, you know, the 14-foot doors, real tall 5 ones. And my dad was in covering the boiler. And 6 the boiler was going. And the warehouse, the 7 operation was going.</p> <p>8 And he asked me to push along these, you know, 9 pipe covers, you know, the sort of open things, and 10 put them on these -- these lines, you know, just so 11 that it would be done and just save him some time. 12 So I was up on this high ladder, trying to push -- 13 push these things on these copper pipes that were 14 around.</p> <p>15 Q So this was copper pipe that you were insulating?</p> <p>16 A It was -- it was copper pipe. And I wasn't 17 insulating. I was pushing these items on it, you 18 know, and climbing up and down from the ladder. I 19 can remember very, very vividly thinking -- because 20 it was itchy and uncomfortable. The door was mostly 21 open, and it was about zero outside. So I was 22 thinking, Boy, I need to keep on going to school. 23 This is not what I want to do for a living.</p> <p>24 Q It's amazing how some of us become lawyers.</p> <p>25 A Mm-hmm.</p>	<p style="text-align: right;">Page 44</p> <p>1 A I -- I'm assuming that he did. But I never 2 specifically recall him going. I know that he was -- 3 everywhere he worked, he was remembered. He was well 4 known. And that's from Illinois, in Chicago, 5 Wisconsin, Minnesota, Dakotas. He would get calls 6 from people who wanted him to come to work for him.</p> <p>7 Q So your father was kind of a highly skilled 8 craftsman?</p> <p>9 A He was. He was very proud of the work that he did. 10 I can remember at the J.C. Penney store in downtown 11 Rockford one time, we went there to buy clothes for 12 high school, and my dad taking me and showing me, 13 pointing out to me the pipes along the -- the top 14 there. And he said, That's what I do, and that's 15 what I have -- look at that. You know, there's no 16 seams. You can't see anything. Then he'd go to 17 another section of the store and said, This is -- 18 somebody else did this.</p> <p>19 And he was very proud of what he did. He was -- 20 he was a very hard worker. And the people that he 21 worked for recognized that. So much so, when he 22 retired, because he was having trouble seeing at 23 night, and so he couldn't -- he couldn't drive 24 anymore, so he retired at 62.</p> <p>25 But the firm that he was working for at that</p>
<p style="text-align: right;">Page 43</p> <p>1 Q I had a similar experience.</p> <p>2 So what you were insulating these copper pipes 3 with was fiberglass, right?</p> <p>4 A I have no idea what it was.</p> <p>5 Q Can you describe it for me?</p> <p>6 A Well, they were -- they were cloth-covered rounds 7 that, you know, the cloth would fold back and you 8 could hold them open.</p> <p>9 Q Kind of like a clamshell?</p> <p>10 A Yeah, like a -- somewhat like a clamshell. It 11 didn't -- I don't recall it as being fiberglass, but 12 it might have been. But I don't know.</p> <p>13 Q Made your skin itchy, though?</p> <p>14 A It did make my skin itchy.</p> <p>15 Q Okay. Do you recall what the color of the material 16 was?</p> <p>17 A It was almost like a paper gray.</p> <p>18 Q Okay.</p> <p>19 A So I have no idea what it was. And I just -- to me, 20 I think from -- I still have the habit of calling all 21 of it asbestos covering. It's just -- you know, it 22 was just kind of engrained from, I guess, when I was 23 young, but...(Pause.)</p> <p>24 Q So your dad was a member of the asbestos workers 25 union. Did he go to union meetings; do you know?</p>	<p style="text-align: right;">Page 45</p> <p>1 time -- and I think it was Sprinkmann, but I don't 2 know for sure. When he first transferred to that 3 group, he said there were about 50 employees. And 4 over time, as the work went away, they kept on laying 5 people off until there were just two of them left.</p> <p>6 And my dad is, you know, 60-plus at the time. 7 And his boss said, Ozzie, don't worry. You'll be the 8 last guy we ever let go. And that's -- that's what 9 everyone thought of him.</p> <p>10 Q Okay. Was your dad proud of being a member of the 11 union?</p> <p>12 A I -- I believe -- I believe he was. We had -- when 13 we were young, we had discussions about unions. And 14 we would talk about the pros and the cons. And -- 15 and dad would say, But -- you know, would usually 16 come down and say, Okay, but think about where would 17 we be if there were no unions. What would the -- 18 what would the workmen get? How would they compete? 19 Would they just have to take what they're given and 20 be happy?</p> <p>21 So, and I think this resulted from discussions 22 because of the Teamsters union in the '60s was so, so 23 very powerful. And coming -- the Teamsters used to 24 deliver groceries to Zanocco Brothers. And we were 25 familiar with this guy that delivered them. The guy</p>

<p style="text-align: right;">Page 46</p> <p>1 is probably two inches shorter than me, wider than 2 the both of us, and it was all muscle. 3 He was one of the strongest guys I recall seeing 4 in quite some time. And he used to unload the back 5 end of a semi. And three of us were down -- three 6 young guys were down below, trying to keep up with 7 him. And he had fun just throwing stuff on there, 8 and the three of us are just dying, trying to keep 9 up, unloading these cans and boxes of goods. 10 And one Wednesday he didn't show up. And -- and 11 so on Thursday he showed up. And so we started 12 kidding him about having a girlfriend or meeting 13 somebody. And he said, Nope, I was at the O'Hare 14 Oasis last night. And we said, Well, why? He says, 15 Because my shop steward said this was a two-day job, 16 a two-day trip. And we started laughing at him. And 17 we were kidding him, and he was throwing more stuff 18 off. 19 And we said, You're afraid. And he turned 20 around, and he was sheet-white. And he just said, 21 Look, when my steward says it's a two-day job, it's a 22 two-day job. He was terrified. He was scared to 23 death. Of course, you're from Chicago. You know how 24 things were back then. And that was a shock to me 25 that somebody that strong and powerful was terrified</p>	<p style="text-align: right;">Page 48</p> <p>1 A No. 2 Q Other than that work in your house in the late '50s, 3 did you ever work with your father as an insulator 4 prior to 1960? 5 A No. 6 Q And the only other time you ever worked with your 7 father after 1960 was the one job at the cardboard 8 plant; is that right? 9 A Yes. 10 Q Okay. 11 A I might have helped him once or twice with relatives. 12 Whenever we went on vacation, the relatives would ask 13 him to come over for some help, so...(Pause.) 14 Q Sure. 15 A You know, but I didn't do any insulating. He always 16 did that, so...(Pause.) 17 Q Do you remember the name of any of the products that 18 your dad worked with at the cardboard plant? 19 A No, I do not. 20 Q Have you ever seen your father use a cement product 21 in his insulating work? 22 A I -- I don't know if it's a cement product. I know 23 he used to use mud, you know, some sort of mud to 24 wrap pipes. I -- oddly enough, I have a very 25 distinct memory of my dad in Badger Ordnance.</p>
<p style="text-align: right;">Page 47</p> <p>1 of what the union told him to do. 2 Q So did your dad receive union publications at home? 3 A Not that I recall. 4 Q Okay. Would you have been the person who got the 5 mail? 6 A Generally, no. I did on occasion, but typically not. 7 Q All right. So you wouldn't have necessarily known 8 what your parents would or would not have received in 9 the mail while you were growing up? 10 A That's correct. I don't ever recall him handing me 11 something to read or, you know, "Here. Read this. 12 This is from the union," or anything. You know, 13 as -- I think it's possible that my memory could be 14 jogged, but I just don't recall that right now. 15 Q Okay. Did you ever work with your father as an 16 insulator prior to the 1960s? 17 A Well, it would have been, I think, helping him when 18 he insulated the pipes in our house. And that was 19 '56, the end of '56, '57. 20 Q Do you remember what products your father used to 21 insulate the house? 22 A No. 23 Q You don't remember the name of the product? 24 A No. 25 Q Don't know who manufactured it?</p>	<p style="text-align: right;">Page 49</p> <p>1 Q How do you have a memory of that? 2 A In -- my dad and I used to be very close, and all of 3 our trips tended -- you know, vacations, Christmas, 4 summer vacations -- 5 Q Mm-hmm. 6 A -- tended to be heading towards Superior. And we 7 would either go as a family, or if my dad and I were 8 working or he was busy, I would frequently stay and 9 we'd go together. Frankly, that was one of my 10 thrills, is to spend time with my dad. 11 Q Mm-hmm. 12 A And my mother's family was there in Superior, and my 13 dad's family was in northern Minnesota. And for 14 quite some time, just my dad and I would go to see 15 Grandma Suoja. And one of the people -- I've got -- 16 I did bring some pictures here. 17 Q That's okay. We can leave those pictures aside for 18 the time being. I'll ask you about it. 19 A One of the guys -- one of the relatives, a fella 20 named Bernard Auberg, he married my Grandma Dalbec's 21 sister. He ran the General Motors sales operation in 22 Withee and Thorp, Wisconsin. And the -- the normal 23 trip -- you know, because it was a long drive. It 24 was a nine-hour drive. I always remember that nine 25 hours before the interstate. The normal trip was to</p>

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<p>1 the west of Withee and Thorp. But we would typically 2 go there to stop and see other relatives on the way. 3 And dad bought his cars from Bernard. And in 4 '55, he bought a '55 Pontiac, or I should say '55 or 5 '56. It was a new Pontiac. And I know somewhere 6 there's a picture of dad with his Pontiac, standing 7 by the door of the Pontiac.</p> <p>8 And he wanted to show me where he was working. 9 And so instead of taking the usual route home, there 10 was -- it was a few extra miles. And we came back 11 down this long, relatively straight highway, which 12 was a little unusual for Wisconsin. And he pointed 13 out to me, and I remember it distinctly as Badger 14 Ordnance because it was pretty unique.</p> <p>15 But as we went along, there were, like, these two 16 buildings or almost chimneys, but they were fairly 17 thick, and then there was a walkway between them. 18 But they were quite a ways off the ground. You know, 19 it was maybe 80 feet. 60, 80 feet. And then the 20 walkway ran for quite a distance. And, you know, at 21 least a football field, or it seemed like, or maybe 22 more.</p> <p>23 And he was talking about insulating those pipes 24 up there on that walkway. And he was talking about 25 it -- doing it in January. And he said, When you get</p>	<p>1 which -- 2 A Mm-hmm. 3 Q -- I assume that you would understand, but I just 4 want to make sure we're clear: If I ask you a 5 question and you don't understand what I'm asking, or 6 you think that we might be on a different page, 7 please tell me. Because I want to make sure -- 8 A Certainly. 9 Q -- that at the end of the day, you and I are as much 10 on the same page as possible. 11 A Okay. 12 Q Okay? 13 A That's fine. 14 Q And I'll do the same with you when I'm trying to -- 15 A Okay. 16 Q -- clarify. All right? 17 So I heard you say earlier that you have a 18 recollection of your father working at Badger 19 Ordnance. 20 A Yeah. 21 Q But you weren't there while your father was working 22 at Badger Ordnance? 23 A No, I was not there while he was actually working. 24 Q The only way you know that your father was there is 25 from this conversation you two had; is that right?</p>
<p style="text-align: center;">Page 51</p> <p>1 up there -- and he was commenting on the wind being 2 cold, the wind blowing and the low temperatures. And 3 he said it had to get done.</p> <p>4 And he said, I was trying to use gloves to get 5 this mud mixed, you know, and make it work, and he 6 said, You just couldn't do it with gloves on. So he 7 said, It's miserable. I just had to do it with my 8 hands and then, you know, get the mud on. And -- and 9 for some reason that stuck with me. There were a 10 number of things on those trips that stuck with me, 11 but that -- that was one of them.</p> <p>12 And the odd thing is, because I hadn't thought of 13 Badger Ordnance for the longest time until it came up 14 in this transaction. But that was a memory that I 15 still have. And I recall it with the new Pontiac. 16 Because we never -- we never otherwise would have 17 taken that road. He just wanted to show me what he 18 was doing.</p> <p>19 Q So that was in 1955?</p> <p>20 A It was '55 or '56. You know -- you know, the car, 21 you know, coming out. It was a new -- a new Pontiac, 22 so...(Pause.)</p> <p>23 Q And so what I want -- I want to make sure that I'm 24 clear on -- oh, and I should have said this before as 25 well. Another important thing as we go through today,</p>	<p style="text-align: center;">Page 53</p> <p>1 A That's correct. And we -- we drove by, and he was 2 showing me where he worked. 3 Q Okay. And this was after the work had already been 4 completed? 5 A No, I don't have that impre -- I have the impression 6 that it was potentially still going on. And my 7 recollection of it is not that this was something he 8 did before. He was talking about having to insulate 9 this up above. But the impression I had was that it 10 was still going on. 11 Because it was -- he would frequently have jobs 12 where he'd have to go and stay for a week and then 13 he'd -- then he'd come home. That was -- that was 14 not unusual. And we used to go through Wisconsin 15 Dells on these trips. And this was -- this was -- my 16 recollection is this was north of Wisconsin Dells. 17 And it was -- it was something that he wanted to show 18 me, you know, where he worked. 19 Q So let me clarify that a little bit. It may be your 20 impression that the work was still going on, but you 21 don't actually know one way or the other? 22 A I can't recall that it was, you know, definitely one 23 way or the other. But the impression I had was that 24 it was. 25 Q Okay. But you weren't actually present while your</p>

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<p>1 father was working at Badger Ordnance; is that right?</p> <p>2 A No. Other than that one trip and that -- I just</p> <p>3 remember going down that straight highway with the</p> <p>4 new car and dad showing me where he worked. And he</p> <p>5 did that on occasion, he'd show me. The Chicklet</p> <p>6 plant in Rockford, Illinois, we went by there. He</p> <p>7 had done work there. Swedish Hospital. Showed me</p> <p>8 where he was crawling in these holes, insulating</p> <p>9 pipes on his back. It was just -- to me, it was</p> <p>10 nuts.</p> <p>11 Q And I apologize. The way I asked the question, the</p> <p>12 way --</p> <p>13 A Yeah.</p> <p>14 Q -- your answer came out's going to look different on</p> <p>15 the transcript.</p> <p>16 Were you present while your father was doing any</p> <p>17 insulating work at Badger Ordnance?</p> <p>18 A No, I was not.</p> <p>19 Q Okay. Were you present at -- other than the</p> <p>20 cardboard plant we talked about earlier and --</p> <p>21 A Yeah.</p> <p>22 Q -- taking out any home or homes of relatives, when</p> <p>23 your father was on a job site, working as an</p> <p>24 insulator, were you ever present?</p> <p>25 A A few times --</p>	<p>1 father worked with at Badger Ordnance were asbestos,</p> <p>2 fiberglass, or otherwise?</p> <p>3 A I had no idea what they were.</p> <p>4 Q Same with Swedish Hospital?</p> <p>5 A Same with Swedish Hospital.</p> <p>6 Q Okay. So you don't have any idea whether the</p> <p>7 products your father worked with at Swedish Hospital</p> <p>8 contained asbestos or not; is that right?</p> <p>9 A That's correct.</p> <p>10 Q Okay. In fact, if I were to ask, are you -- from</p> <p>11 your own knowledge, do you know any job site where</p> <p>12 your father may or may not have worked with asbestos-</p> <p>13 containing materials?</p> <p>14 A As far as specific jobs, no.</p> <p>15 Q Okay.</p> <p>16 A I know he worked with asbestos, and I know at some</p> <p>17 point asbestos was phased out. But whether he used</p> <p>18 asbestos on any particular job, I do not know.</p> <p>19 Q Okay. Do you know from your own knowledge any names</p> <p>20 of products that your father worked with?</p> <p>21 A No, I do not.</p> <p>22 Q Okay. When your father was -- when you were growing</p> <p>23 up and at home, did your father come home and talk</p> <p>24 about product names that he was using on job sites?</p> <p>25 A No.</p>
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<p>1 Q Okay.</p> <p>2 A -- I was. Either because we had the vehicle and had</p> <p>3 to pick him up. And dad was not somebody that, you</p> <p>4 know, when the 5:00 bell rang, he was there. So</p> <p>5 you'd go looking for him. And I remember that -- I</p> <p>6 remember the Chicklet plant just because we went in</p> <p>7 and kind of wanted to see what was -- what was going</p> <p>8 on. He showed me some of the work that he did at</p> <p>9 Swedish, because he was showing me the places that he</p> <p>10 had to get to.</p> <p>11 Right now, I can't think of any other times I --</p> <p>12 when he was away from Rockford, I don't recall any</p> <p>13 other times that I was present when he was working.</p> <p>14 Q While you were at the Chicklet plant, did you</p> <p>15 actually see your father working on pipes?</p> <p>16 A Yes.</p> <p>17 Q Okay. Do you recall what he was doing?</p> <p>18 A He was covering pipes.</p> <p>19 Q Do you know what products he was using to cover those</p> <p>20 pipes?</p> <p>21 A I have no idea.</p> <p>22 Q Do you know if the products were asbestos-containing</p> <p>23 or fiberglass?</p> <p>24 A I have no idea.</p> <p>25 Q Do you know whether or not the products that your</p>	<p>1 Q Okay. Did your father ever discuss with you the</p> <p>2 names of products that he used in his job?</p> <p>3 A He may have mentioned them, but I don't remember any</p> <p>4 of that.</p> <p>5 Q Okay. So you can testify that your father worked</p> <p>6 with a Johns Manville product or an Owens Corning</p> <p>7 product or an Owens-Illinois product; is that right?</p> <p>8 A I could not say --</p> <p>9 MR. McCOY: Objection; that's --</p> <p>10 Gary, wait a minute.</p> <p>11 THE WITNESS: Sure.</p> <p>12 MR. McCOY: That calls for a legal</p> <p>13 conclusion by the judge as to what he can testify to.</p> <p>14 You can go ahead and answer.</p> <p>15 THE WITNESS: Yeah, I -- I know all</p> <p>16 of those names, so I -- you know, I -- I don't know,</p> <p>17 you know, what it is. You know, working in</p> <p>18 construction and working in real estate, all those</p> <p>19 names are familiar. I can't say that dad ever</p> <p>20 mentioned them or that I saw them back then. They're</p> <p>21 just familiar names to me.</p> <p>22 Q (By Mr. Lee) To address Mr. McCoy's objection, do</p> <p>23 you know whether your father ever worked with</p> <p>24 Owens-Illinois, Owens Corning, Pittsburgh Corning,</p> <p>25 Johns Manville products?</p>

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<p>1 A No. I can -- I can only assume he did. I don't know 2 specifically what products he worked with.</p> <p>3 Q And just so we're on the page, you understand I'm not 4 asking you to make an assumption about anything when 5 we're here today; is that right?</p> <p>6 A That's -- I'm -- I'm not assuming. If I'm assuming 7 something, I'd state it.</p> <p>8 Q Okay. You don't know, from your knowledge, whether 9 your father worked with any Owens-Illinois, Owens 10 Corning, Johns Manville, or Pittsburgh Corning 11 products; is that correct?</p> <p>12 A I know he worked with some of those products. I do 13 not know when or on what jobs --</p> <p>14 Q Okay.</p> <p>15 A -- he worked with them.</p> <p>16 Q How would you have found out what products your 17 father worked with?</p> <p>18 A You -- if you were in construction or you worked in 19 construction, you know, those things would either -- 20 boxes would come home, products would come home, and 21 you'd just see the names. And I can't have -- I 22 don't have any specific recollection of them. But if 23 you're working in construction, those are just common 24 names.</p> <p>25 Q Okay.</p>	<p>1 using insulating material to cover those pipes. I 2 know the names of some of the -- some of the products 3 that were used in that -- in insulating product or in 4 insulating pipes. Can I -- can I tell you what he 5 used on any job? No. Can I -- can I tell you that 6 I've heard the name John Mansville [sic], Mansville 7 before? Yes. Might he have used that? Yes. But on 8 any particular job, I can't tell you. I don't know.</p> <p>9 Q And I think we're -- we're missing each other a 10 little bit, and that's my fault. So what I'm really 11 trying to ask is: For any job site, can you say that 12 your father definitely worked with a Johns Manville 13 product?</p> <p>14 A No, I cannot for any specific job say that.</p> <p>15 Q Okay. And so you can't say for -- from your own 16 knowledge whether your father ever worked with a 17 Johns Manville product, can you?</p> <p>18 A I don't think I'd go that far. Because my -- you 19 know, of the products that I'd seen and over time -- 20 you know, because you see these things. Something 21 might come home in a trunk or, you know, in the 22 backseat of the car. So I've seen those. So I know 23 that he used them. I don't know on what job he used 24 them. I don't know when he used them. Those are -- 25 those are just familiar names. They were just there,</p>
<p style="text-align: center;">Page 59</p> <p>1 A So you see that all over. Just like going into a 2 hardware store. You'll see those names.</p> <p>3 Q Okay. Your father never told you he worked with any 4 of those products, right?</p> <p>5 A I -- I do not have any recollection of him telling me 6 that.</p> <p>7 Q Okay. And your father never told -- and you were 8 never on a job site where you saw any of those 9 products while your father was working there; is that 10 right?</p> <p>11 A I know he was -- he had products that he was putting 12 on the pipes. I don't recall the names of what 13 product was what.</p> <p>14 Q Okay. So you can make an assumption about what 15 products your father might have worked with, but you 16 don't actually have any knowledge of the products he 17 worked with; is that right?</p> <p>18 A No, I can't relate any particular product to any 19 particular job.</p> <p>20 Q But I'm going a little bit farther than that. You 21 don't actually have any knowledge of the products he 22 worked with at any job site, do you?</p> <p>23 A Well, no. That's too far.</p> <p>24 Q Okay.</p> <p>25 A I know he was covering pipes. I know that he was</p>	<p style="text-align: center;">Page 61</p> <p>1 and you'd see them on occasion.</p> <p>2 Q Okay. What products do you recall coming home in 3 your father's car?</p> <p>4 A Well, John Mansville is -- is a name that's -- that's 5 just familiar. I -- I just don't recall the others. 6 And I don't think I could give you a particular name. 7 I just -- they were just around. And because I'd 8 worked in construction, they're just names that are 9 around. So I can't -- I can't tell you. I can't -- 10 I can't remember a particular box with a particular 11 name on it. I can't remember dad identifying a 12 particular product. We just -- it was just, Here, 13 we're going to wrap these here, and away you go.</p> <p>14 Q Okay. So let me break that down a little bit. You 15 can't remember your father ever naming any of the 16 products he worked with; is that right?</p> <p>17 A No, other than asbestos and something not asbestos. 18 And that's about it.</p> <p>19 Q And I'm sorry. I keep phrasing these questions in a 20 way that's not helpful to us, so I'll rephrase it 21 again. It's my fault.</p> <p>22 A I'm sorry. My goal here is to help you out as much 23 as I can.</p> <p>24 Q I understand. And do you remember your father ever 25 mentioning the specific names of any products he</p>

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<p>1 worked with?</p> <p>2 A No, not that I could -- not that I could identify any</p> <p>3 conversation.</p> <p>4 Q Okay. And do you remember the names of any products</p> <p>5 that your father brought home?</p> <p>6 A I cannot remember any specific product he brought</p> <p>7 home.</p> <p>8 Q Okay. Got there. Thank you.</p> <p>9 All right. We've been going for about an hour</p> <p>10 and a half. If you don't mind, I would like to take</p> <p>11 a quick break. And I'm also going to try and see if</p> <p>12 I can get the document that Mr. McCoy sent to me</p> <p>13 printed, so that maybe we can -- that can expedite</p> <p>14 things. So if we could take a --</p> <p>15 A Okay.</p> <p>16 Q -- 15-minute break?</p> <p>17 A Bob?</p> <p>18 MR. McCOY: Okay. I'll see you</p> <p>19 guys in 15.</p> <p>20 THE WITNESS: Okay.</p> <p>21 MR. LEE: All right. That'll be</p> <p>22 12:15, so 2:15 by you, Bob. Okay. Thank you.</p> <p>23 THE VIDEOGRAPHER: Going off</p> <p>24 record. The time now is 11:59 a.m.</p> <p>25 (Pause in proceedings from</p>	<p>1 A Aaron, A-a-r-o-n; Nicole, N-i-c-o-l-e; and Tate, who</p> <p>2 now spells it T-a-t-e.</p> <p>3 Q Is that not how it was originally spelled?</p> <p>4 A That's correct.</p> <p>5 Q Okay.</p> <p>6 A He changed it himself when he was in first grade.</p> <p>7 Q Oh. That's an early change.</p> <p>8 A He made the decision, and that was it.</p> <p>9 Q My understanding is that your sister Nicole -- or</p> <p>10 Kimberly does not have any children; is that right?</p> <p>11 A That's correct.</p> <p>12 Q Okay.</p> <p>13 A To my knowledge.</p> <p>14 Q She confirmed that, so I'm going to go with that.</p> <p>15 A Okay.</p> <p>16 Q So our understanding is that your sister Sue has some</p> <p>17 medical issues; is that correct?</p> <p>18 A She does.</p> <p>19 Q Are those medical issues such that they would</p> <p>20 prohibit her from testifying and sitting like this?</p> <p>21 A That's correct. They would.</p> <p>22 Q Okay. Can you tell us generally what they are that</p> <p>23 would prohibit her from sitting in a deposition?</p> <p>24 A She has breathing problems and COPD and has been on</p> <p>25 oxygen for, I believe, six-plus years.</p>
Page 63	Page 65
<p>1 11:59 a.m. to 12:22 p.m.)</p> <p>2</p> <p>3 THE VIDEOGRAPHER: Back on record.</p> <p>4 Time now is 12:22 p.m.</p> <p>5 Q (By Mr. Lee) All right. I want to go back and ask a</p> <p>6 little bit more about your family. Your brother,</p> <p>7 Derald, does he have any children?</p> <p>8 A He has two children.</p> <p>9 Q What are their names?</p> <p>10 A Lisa and Lynn.</p> <p>11 Q How old are Lisa and Lynn?</p> <p>12 A I can't tell you.</p> <p>13 Q Are they adults?</p> <p>14 A They are adults. They were born before I had any</p> <p>15 children, so... (Pause.)</p> <p>16 Q Okay. Does your sister Sue have any children?</p> <p>17 A Yes, she does. She has two.</p> <p>18 Q And what are their names?</p> <p>19 A Bonnie and -- oh, my goodness. She's going to kill</p> <p>20 me. I can't think of her daughter's name.</p> <p>21 Q Okay. Are Sue's children adults?</p> <p>22 A Yes, they are.</p> <p>23 Q And do you have any children?</p> <p>24 A I do.</p> <p>25 Q And what are their names?</p>	<p>1 Q So you'll forgive me for asking, and the reason why</p> <p>2 I'm asking is we've agreed -- you probably know we've</p> <p>3 agreed with Mr. McCoy to suspend a subpoena that we</p> <p>4 sent to your sister Sue on the representation --</p> <p>5 A Well --</p> <p>6 Q -- that she's too ill to sit for a deposition.</p> <p>7 A The subpoena you sent to my sister caused her a great</p> <p>8 deal of discomfort. And I can tell when there's</p> <p>9 discomfort, because she cannot continue talking. She</p> <p>10 has to go lay down.</p> <p>11 Q Mm-hmm.</p> <p>12 A When that subpoena showed up, especially after I told</p> <p>13 Mr. McCoy that she could neither testify nor take a</p> <p>14 deposition, that was -- that was just uncalled for.</p> <p>15 It was more than uncalled for. That was sleazy.</p> <p>16 Q Well, sir, that information was never communicated to</p> <p>17 us.</p> <p>18 A Well, that can -- that can be your story. But I'm</p> <p>19 telling you, that was a very, very wrong thing to do.</p> <p>20 Q Well, she was listed as a person with knowledge in</p> <p>21 your discovery responses.</p> <p>22 A I believe she was listed as a person who was a</p> <p>23 daughter of Oswald Suoja.</p> <p>24 Q Actually, no, sir. She was listed as a person who</p> <p>25 had discussions about the settlement offer.</p>

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<p>1 A Well, I would tend to disagree.</p> <p>2 Q Okay.</p> <p>3 A She shouldn't have been subpoenaed.</p> <p>4 Q So, I mean, I don't really want to get in a fight</p> <p>5 with you over this, sir, but we'll make the record</p> <p>6 clear.</p> <p>7 MR. LEE: Could we mark this as</p> <p>8 Exhibit 2?</p> <p>9 (Exhibit No. 2 marked for</p> <p>10 identification.)</p> <p>11</p> <p>12 Q (By Mr. Lee) I'm going to hand you what we've marked</p> <p>13 as Exhibit 2, sir. Do you have that in front of you?</p> <p>14 A Yes, I do.</p> <p>15 Q Are those Plaintiff's Responses to Owens-Illinois</p> <p>16 Interrogatories dated 5/28/15 and Plaintiff's</p> <p>17 Responses to Owens-Illinois Requests for Production,</p> <p>18 5/28/15?</p> <p>19 A The response to production appears to be the case,</p> <p>20 but that was signed by -- looks -- appears to be</p> <p>21 signed by Mr. McCoy. I did not sign that. So --</p> <p>22 Q Okay.</p> <p>23 A -- I didn't know it. The response to the</p> <p>24 interrogatories, I did sign. And that appears to be</p> <p>25 what I signed.</p>	<p>1 involved or to testify.</p> <p>2 Q That e-mail was sent to us after we'd issued the</p> <p>3 subpoena.</p> <p>4 A Well, you and Mr. McCoy can argue about that.</p> <p>5 Q No, I'm just trying to -- you said that there was no</p> <p>6 information to us that would suggest she had anything</p> <p>7 to do with the settlement discussions. Actually, your</p> <p>8 responses to our interrogatories indicated she had</p> <p>9 knowledge regarding the settlement discussions, right?</p> <p>10 A You -- apparently you didn't read the rest of the</p> <p>11 sentence then. She was not involved in my decision</p> <p>12 to not accept the OI offer, my response to the OI</p> <p>13 offer, or my communication to Mr. McCoy about my</p> <p>14 response to the offer.</p> <p>15 Q But your sister is a member of the estate, right?</p> <p>16 A She is.</p> <p>17 Q She would have authority to weigh in on the estate</p> <p>18 and --</p> <p>19 A No, she wouldn't.</p> <p>20 Q -- how it changed?</p> <p>21 A I believe that I am the one that has the authority as</p> <p>22 the appointee here, am I not?</p> <p>23 Q You don't --</p> <p>24 MR. MCCOY: Yeah, let me object at</p> <p>25 this time now. Now, this is asking for a legal</p>
<p>Page 67</p> <p>1 Q Okay. And if we go in to Page 3 and 4 -- sorry -- 2</p> <p>2 and 3 of the interrogatories.</p> <p>3 A Mm-hmm.</p> <p>4 Q We see that there was a question asked: Was anyone</p> <p>5 else involved in your communication regarding the</p> <p>6 proposed settlement with Owens-Illinois?</p> <p>7 Do you see that question on Page 2, the bottom,</p> <p>8 No. 4?</p> <p>9 A Yes, I do.</p> <p>10 Q And the answer, which you verified, states that you</p> <p>11 conferred with your sister Sue Merwin about the</p> <p>12 settlement. Is that not true?</p> <p>13 A No, I said I mentioned the OI offered to my sister</p> <p>14 Sue Merwin.</p> <p>15 Q Right. And so she would be a person who would have</p> <p>16 some knowledge with regard to the settlement offer,</p> <p>17 right?</p> <p>18 A She is just what I said. I mentioned the offer to my</p> <p>19 sister Sue.</p> <p>20 Q And if we were trying to figure out what was</p> <p>21 discussed about the settlement offer, she'd be a</p> <p>22 person who would have knowledge about that, correct?</p> <p>23 A Well, I would assume that you would have talked to</p> <p>24 Mr. McCoy. And I believe -- my understanding is</p> <p>25 Mr. McCoy told you that she was too ill to either be</p>	<p>Page 69</p> <p>1 conclusion on areas that Gary Suoja is not an expert</p> <p>2 in on Wisconsin law of special administrators or</p> <p>3 whatever might be the applicable federal points here.</p> <p>4 So the question about authority is one for the</p> <p>5 judge to resolve as a matter of law. You can go</p> <p>6 ahead and ask your questions, but the question asking</p> <p>7 him to give a legal conclusion as to whether somebody</p> <p>8 has authority is improper, and I object to that</p> <p>9 question.</p> <p>10 Subject to that, you can go ahead and answer it,</p> <p>11 Gary.</p> <p>12 THE WITNESS: Well, I think I did.</p> <p>13 MR. LEE: Okay.</p> <p>14 THE WITNESS: Unless you want to</p> <p>15 repeat the question.</p> <p>16 MR. MCCOY: Next question.</p> <p>17 MR. LEE: Can you read back his</p> <p>18 answer, please?</p> <p>19 THE WITNESS: Or read back the</p> <p>20 question so I can --</p> <p>21 MR. LEE: I'm going to ask you to</p> <p>22 read back the answer, please.</p> <p>23 THE WITNESS: Well, without the</p> <p>24 question -- okay, you can read the answer, but then</p> <p>25 I'm going to have to have the question back again.</p>

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<p>1 MR. LEE: Well, it depends on 2 whether --</p> <p>3 MR. McCLOY: Please read both.</p> <p>4 MR. LEE: It depends on whether I'm 5 going to ask another question or not, sir.</p> <p>6 So can I just have the answer, please?</p> <p>7 (Question on Page 69, Lines 8 1 through 2, read by the 9 reporter.)</p> <p>10 THE WITNESS: Special 11 administrator, I guess.</p> <p>12 Q (By Mr. Lee) Do you understand -- do you know who's 13 appointed you a special administrator?</p> <p>14 A No. I just am. I'm the one that's -- everything has 15 been addressed to.</p> <p>16 Q Okay. Has the State of Wisconsin appointed you as 17 the special administrator?</p> <p>18 A I don't know.</p> <p>19 MR. McCLOY: Let me again pose an 20 objection to the extent that these are legal 21 conclusions as to whether some government agency has 22 appointed or not.</p> <p>23 Subject to that, Gary, you can go ahead and 24 answer.</p> <p>25 THE WITNESS: All I know is that</p>	<p>1 estate informed of all matters material to the 2 estate?</p> <p>3 A I don't know.</p> <p>4 MR. McCLOY: Same objection. Go 5 ahead.</p> <p>6 Q (By Mr. Lee) Do you have an obligation to inform the 7 other members of the estate with regard to any 8 settlement offer?</p> <p>9 MR. McCLOY: Can I have a standing 10 objection on the legal conclusions being asked for 11 here on the estate law?</p> <p>12 MR. LEE: So, Bob, I mean, to the 13 extent that the judge is going -- you're making an 14 objection to form and/or foundation, correct?</p> <p>15 MR. McCLOY: I'm making an objection 16 as to -- as to both, but -- those grounds. But I'm 17 also objecting specifically for the legal conclusions 18 being called for.</p> <p>19 And while we're on it, I mean, I don't understand 20 the relevance of all this, given that the judge has 21 already ruled specifically that discovery is precluded. 22 Because any questions about his status as special 23 administrator is forfeited.</p> <p>24 You know, you can go ahead and relate these 25 questions to the issue that is on the table for</p>
<p>1 the attorney at Cascino Vaughan that I dealt with 2 went through the process to have me appointed. 3 That's all I know.</p> <p>4 Q (By Mr. Lee) Who's that lawyer?</p> <p>5 A That was -- at the time was Jill Rakauski.</p> <p>6 Q Okay. That would have been back in the '90s?</p> <p>7 A No. I think it was in the -- sometime in the 2000s. 8 I don't know the exact date.</p> <p>9 Q Okay. As special administrator, do you have any 10 duties to the other members of the estate?</p> <p>11 A I would assume --</p> <p>12 MR. McCLOY: Let me object again. 13 This calls for a legal conclusion. 14 You can go ahead and answer.</p> <p>15 THE WITNESS: I would assume that I 16 do.</p> <p>17 Q (By Mr. Lee) Okay. Do you know what those duties 18 are?</p> <p>19 A No.</p> <p>20 Q What have you done to determine what you need to do 21 to fulfill your duties as special administrator?</p> <p>22 A Well, I've relied on Cascino Vaughan. I haven't done 23 any separate research or anything else. I -- 24 basically, I rely on what they have to say.</p> <p>25 Q Do you have an obligation to keep the members of the</p>	<p>1 discovery about enforcement of the settlement 2 agreement. That's fine. But to generally ask him 3 about a estate law, I don't understand the relevance. 4 And the judge ruled that's out.</p> <p>5 Subject to that, I'm not going to take up any 6 more time here. Gary can go ahead and answer what he 7 knows.</p> <p>8 MR. LEE: So if you have an 9 objection, Bob, with regard to the legal conclusion, 10 I think that's a foundation objection. I'm happy to 11 give you a standing objection on any issue you 12 believe is a legal conclusion that I'm asking for so 13 that we can move this along.</p> <p>14 MR. McCLOY: Okay. That's fine. 15 Thank you.</p> <p>16 MR. LEE: On the grounds that it's 17 a foundation objection, okay?</p> <p>18 MR. McCLOY: Fine. I'll accept 19 that.</p> <p>20 MR. LEE: Okay. Sorry. What was 21 my last question?</p> <p>22 (Question on Page 72, Lines 23 13 through 15, read by the 24 reporter.)</p>

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<p>1 MR. LEE: What was the answer?</p> <p>2 THE REPORTER: Directly after that,</p> <p>3 Mr. McCoy asked for the standing objection.</p> <p>4 MR. LEE: Okay.</p> <p>5 Q (By Mr. Lee) As the special administrator of your</p> <p>6 father's estate, do you have an obligation to inform</p> <p>7 other members of the estate of any settlement offer?</p> <p>8 A I don't believe so.</p> <p>9 Q What have you done to determine whether you have any</p> <p>10 obligations as special administrator?</p> <p>11 A I rely on at this point Mr. McCoy and Cascino</p> <p>12 Vaughan.</p> <p>13 Q Okay. Have you ever asked the other members of the</p> <p>14 estate for the authority to represent them as the</p> <p>15 special administrator?</p> <p>16 A No.</p> <p>17 Q So no one in your family has given you authority to</p> <p>18 represent the estate; is that correct?</p> <p>19 A Nobody -- nobody specifically has, no. They all know</p> <p>20 that I am, and nobody has objected.</p> <p>21 Q Okay. Did you know that your sister Kimberly</p> <p>22 testified that she didn't even know there was a</p> <p>23 lawsuit until you called her to let her know that she</p> <p>24 had been subpoenaed as a witness?</p> <p>25 A That's -- that's possible. Well, actually, that's --</p>	<p>1 on, but they never gave you express authority to act</p> <p>2 on their behalf; is that right?</p> <p>3 A Well, they knew that there was a claim going on.</p> <p>4 They knew after mother passed away -- I'm pretty sure</p> <p>5 they knew that I was going to be handling it.</p> <p>6 Because as we did -- as we went through mother's</p> <p>7 estate and so on, I think that was pretty clear at</p> <p>8 that point in time.</p> <p>9 Q Did you have an actual discussion about it?</p> <p>10 A We did not have an actual discussion that I recall.</p> <p>11 Q As a lawyer, do you understand the difference between</p> <p>12 express authority and implied authority?</p> <p>13 A I do.</p> <p>14 Q Do you have express authority from the other members</p> <p>15 of your family to represent them as special</p> <p>16 administrator of the estate?</p> <p>17 A Well, you can have express authority in different</p> <p>18 fashion. And it doesn't have to be, "I give you this</p> <p>19 authority." It can -- it can occur out of a course</p> <p>20 of conduct. And in this particular case, the family</p> <p>21 has received checks from me. I've talked to them on</p> <p>22 occasion about it. I -- for example, I -- I talked</p> <p>23 to my brother and his wife about the possibility that</p> <p>24 my brother might have a claim just like dad did, and</p> <p>25 we went through that.</p>
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<p>1 you know, I'm not sure that she was fully thinking</p> <p>2 about that. Because as settlements have occurred,</p> <p>3 I've written her checks for her portion of the</p> <p>4 settlement.</p> <p>5 Q She said she's only received one \$500 check.</p> <p>6 A I don't believe that's correct.</p> <p>7 Q Okay. She said she didn't know why you wrote her the</p> <p>8 check.</p> <p>9 MR. McCLOY: Let me object at this</p> <p>10 point in time to counsel restating answers of another</p> <p>11 witness and using those as part of the question.</p> <p>12 Because that's something that should only be taken</p> <p>13 from the actual transcript.</p> <p>14 Subject to that, and without regard to whether</p> <p>15 counsel's statements of Kimberly's answers are</p> <p>16 correct or not, you can go ahead and answer, Gary.</p> <p>17 MR. LEE: And so, Bob, I just want</p> <p>18 to make sure your objection is to the form of the</p> <p>19 question.</p> <p>20 MR. McCLOY: Yes. Right.</p> <p>21 MR. LEE: Okay. Go ahead.</p> <p>22 THE WITNESS: Well, I have written</p> <p>23 the check, so...(Pause.)</p> <p>24 Q (By Mr. Lee) Okay. But I just want to be clear.</p> <p>25 Your family may have known there was a lawsuit going</p>	<p>1 So there have been -- you know, there has been a</p> <p>2 number of times that -- that they've known about it.</p> <p>3 But there's been so little action because this thing</p> <p>4 has been delayed so damn long. Nothing -- nothing</p> <p>5 has occurred. And so there hasn't been much going</p> <p>6 on. And, frankly, I didn't think much more was ever</p> <p>7 going to go on.</p> <p>8 Q Do you have express authority from your -- each of</p> <p>9 your family members to be --</p> <p>10 A I feel I do.</p> <p>11 Q Please let me --</p> <p>12 A Okay.</p> <p>13 Q -- finish my question.</p> <p>14 Do you have express authority from each member of</p> <p>15 the estate to represent them as the special</p> <p>16 administrator?</p> <p>17 A I -- I --</p> <p>18 MR. McCLOY: Objection.</p> <p>19 THE WITNESS: I feel --</p> <p>20 MR. McCLOY: Objection. He's</p> <p>21 already answered. Go ahead and answer again.</p> <p>22 THE WITNESS: I feel that I do.</p> <p>23 Q (By Mr. Lee) Okay. How was that express authority</p> <p>24 communicated by your sister Kimberly?</p> <p>25 A I -- I can't tell you --</p>

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<p>1 MR. McCLOY: Object. Let me object 2 to the form of that question. I didn't understand 3 it.</p> <p>4 MR. LEE: Okay, Bob. That's okay. 5 You don't have to.</p> <p>6 Q (By Mr. Lee) How is express authority for you to 7 serve as administrator of your father's estate 8 conveyed by your sister Kimberly?</p> <p>9 A Well, I believe that it came about as a result of 10 after my mother had passed on, because she had been 11 handling it before; that as we took care of my 12 mother's estate and we were all there, that was 13 pretty much the conclusion, is that I would continue 14 handling this for the family.</p> <p>15 Q How was that --</p> <p>16 A Now, that --</p> <p>17 Q -- conclusion reached?</p> <p>18 A -- was -- well, there wasn't a big discussion, as I 19 recall. But it was -- it was probably talked about. 20 But I don't recall anything where we sat down and 21 said, Well, we're going to do this and have this. We 22 were busy handling the estate, divvying things up, 23 going through records, and on. We were going through 24 checkbooks. And we were talking about this as part 25 of it, and how the estate would be handled. And as</p>	<p>1 Q Okay. 2 A I -- as a matter of fact, I haven't talked to them 3 since my brother's death.</p> <p>4 Q And, in fact, they're members of the estate, aren't 5 they?</p> <p>6 A They would be his heirs.</p> <p>7 Q And you don't have any authority from them, do you?</p> <p>8 A Well, I haven't talked to them about it, no.</p> <p>9 Q Okay. So that would mean you don't have any 10 authority from them to act on --</p> <p>11 A No, that's --</p> <p>12 MR. McCLOY: Objection.</p> <p>13 THE WITNESS: That's your --</p> <p>14 MR. McCLOY: Objection.</p> <p>15 THE WITNESS: That's your 16 conclusion. That isn't --</p> <p>17 MR. McCLOY: Stop for a minute, 18 guys. Okay, I'm going to make an objection here. I 19 mean, this is enough questioning about a subject that 20 the judge has ruled is outside the scope of 21 discovery. So he specifically says that this -- that 22 these issues have been forfeited by Owens-Illinois 23 for further discovery.</p> <p>24 So I'd like you to wrap this up here in a minute 25 or two, Josh. Otherwise I'm going to suggest that we</p>
<p style="text-align: center;">Page 79</p> <p>1 we discussed it, it just came to the conclusion that 2 I would end up handling it.</p> <p>3 Q Handling your --</p> <p>4 A And that's how this came --</p> <p>5 Q -- mother's estate?</p> <p>6 A -- about.</p> <p>7 No. Handling my dad's claim.</p> <p>8 Q Okay.</p> <p>9 A The -- my mother's estate was all dealt with among us 10 kids right there. There -- there wasn't much of an 11 estate to deal with. And so we all handled it right 12 at the time, and we arranged for the sale of the 13 house and the distribution of the -- the personal 14 property.</p> <p>15 But the handling of dad's claim, that was just -- 16 you know, as I recall, it was just discussed and, you 17 know, kind of briefly as, "Yeah, you go ahead and do 18 it," because nobody else wanted to screw around with 19 it, frankly.</p> <p>20 Q Okay. Have you had any conversations with your 21 brother Derald's children about this lawsuit?</p> <p>22 A No, I have not.</p> <p>23 Q Have they given you any authority to represent the 24 estate?</p> <p>25 A No, I have not.</p>	<p style="text-align: center;">Page 81</p> <p>1 should get on the phone with the judge about the 2 order that he issued.</p> <p>3 MR. LEE: Sure. You mean the order 4 that she issued?</p> <p>5 MR. McCLOY: Right.</p> <p>6 MR. LEE: Okay. So, Bob, you can 7 say that. But an issue that you have raised is the 8 person who has authority to act on behalf of the 9 estate. And that also has issues that pertain to who 10 has authority to resolve the claim and whether a 11 valid and enforceable settlement was issued and 12 entered into on behalf of the estate with regard to 13 Owens-Illinois. And all of these questions are 14 relevant for that purpose. So you can --</p> <p>15 MR. McCLOY: I'm not -- I don't 16 understand how -- that you can say anything about the 17 issue of authority as a person on behalf of the estate 18 in the context of a settlement agreement where the 19 question is, was my firm authorized to enter into that 20 settlement agreement for that amount of money.</p> <p>21 I mean, if you're establishing, Josh, that these 22 people didn't have -- that Gary doesn't have 23 authority to act for these people, that obviously 24 there was no authority by my firm, I mean, you're 25 proving our point. So I don't understand it. I</p>

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<p>1 mean, that's why the judge has ruled that his 2 authority is -- or his role as special administrator 3 and the appointment of that is outside the further 4 scope of discovery here.</p> <p>5 So I would say you need to confine your questions 6 to the issue of whether there was authority given to 7 my firm by somebody to make that settlement. I mean, 8 that's what's on the table here.</p> <p>9 MR. LEE: And, Bob, I -- one of the 10 things I have to figure out is who exactly has 11 authority and what the extent of that authority is 12 and how it can be granted and who all was talked to. 13 And these questions go directly to that. If you 14 would like to call the judge, that's up to you. I'm 15 going to keep asking the questions. I'm not going to 16 be limited to a one- or two-minute or any limitation 17 that you put on me. But if you --</p> <p>18 MR. McCOY: Why don't you just --</p> <p>19 MR. LEE: But if you think -- but, 20 Bob, if you think that this is something we should 21 talk to the judge about right now, I'm happy to have 22 you make that call.</p> <p>23 MR. McCOY: Why don't you just ask 24 him, then, the question that you just said, like who 25 has the authority?</p>	<p>1 THE REPORTER: And then there was 2 an objection interruption.</p> <p>3 MR. LEE: Okay.</p> <p>4 Q (By Mr. Lee) So neither of your brother Derald's 5 children has given you authority to act on their 6 behalf with regard to your father's estate; is that 7 right?</p> <p>8 A Neither of them have specifically given me that 9 authority nor have they talked to me about it, no.</p> <p>10 Q Okay. Have you talked to them about it?</p> <p>11 A No, I have not.</p> <p>12 Q Have you sent them settlement checks?</p> <p>13 A No. Because there have been none since my brother 14 passed.</p> <p>15 Q So there's absolutely no course of dealing with 16 regard to your brother's children; is that correct?</p> <p>17 A That's correct.</p> <p>18 Q So you have no authority on their behalf; is that 19 right?</p> <p>20 A That -- I disagree with that conclusion on your part.</p> <p>21 Q How could someone give you authority if you've never 22 had a conversation with them about the issue?</p> <p>23 A They're successors and heirs. They come in and they 24 take the place of their -- of their father. So if 25 you want to do a legal argument, we can. I don't</p>
<p>1 MR. LEE: Bob, I can ask the 2 questions that I choose to ask. I really --</p> <p>3 MR. McCOY: Go ahead.</p> <p>4 MR. LEE: If you do want --</p> <p>5 MR. McCOY: Josh, go -- just go 6 ahead. Let's --</p> <p>7 MR. LEE: Hold on, Bob.</p> <p>8 MR. McCOY: -- move this along.</p> <p>9 Hopefully -- hopefully we can close this into the 10 -- to the relevant topic here. Keep going.</p> <p>11 MR. LEE: Well, Bob, I just want to 12 be clear. If you want to call the judge, I'm not 13 prohibiting you from doing that. I'll be happy to 14 allow you to make the call.</p> <p>15 MR. McCOY: I understand.</p> <p>16 MR. LEE: Do you wish to?</p> <p>17 MR. McCOY: I'm not making the call 18 right now. I'll see if we can get this closed out to 19 the relevant issues here.</p> <p>20 MR. LEE: Okay. What was my last 21 question before we were interrupted by Mr. McCoy?</p> <p>22 (Question on Page 80, Lines 23 16 through 17, read by the 24 reporter.)</p> <p>25</p>	<p>1 want to get into it here, but I'm happy to discuss it 2 with you another time.</p> <p>3 Q Okay. And so are you saying that whoever steps into 4 the shoes of a prior party in interest, accepts 5 whatever authority was granted by that prior party in 6 interest?</p> <p>7 A I'm not going to get into a legal argument with you. 8 And that's what you seem to want to go. I'm not 9 going to answer that question, because I'm not going 10 to get into a legal discussion about it. If you have 11 a conclusion, let me know. If you want to go to the 12 judge and say, "He's got to answer this," or "He 13 needs this," that's for a motion for you.</p> <p>14 Q Okay.</p> <p>15 A That's not for me to argue with you about.</p> <p>16 Q So are you refusing to answer my question?</p> <p>17 A I'm refusing to answer that question.</p> <p>18 Q Okay. That's fine. That's something that the judge 19 can decide.</p> <p>20 A That's right.</p> <p>21 Q Okay. When did you become the special administrator 22 of your father's estate?</p> <p>23 A I do not remember the specific date.</p> <p>24 Q Was it before or after your mother passed away?</p> <p>25 A It was, I believe, after or maybe towards the end of</p>

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<p>1 my mother's life.</p> <p>2 Q Had there been settlements with regard to your</p> <p>3 father's estate prior to your mother passing away?</p> <p>4 A Yes.</p> <p>5 Q Okay. Were you aware of a prior lawsuit that your</p> <p>6 mother had filed with regard to your father's estate?</p> <p>7 A No. I wasn't -- I knew something was going on. I</p> <p>8 didn't -- you know, I didn't know exactly what was</p> <p>9 going on, because I wasn't directly involved.</p> <p>10 Q Okay. Were you aware that there was a case filed in</p> <p>11 Wisconsin state court on behalf of your father's</p> <p>12 estate?</p> <p>13 A Not specifically. I knew there -- I knew my dad had</p> <p>14 a claim going. Cascino Vaughan was handling it. I</p> <p>15 had talked to my mother about it when she'd call and</p> <p>16 ask questions about things. She'd ask, you know,</p> <p>17 some help filling out forms or whatever. And I</p> <p>18 recall talking to Jill Rakauski, I think with my</p> <p>19 mother on the phone once or twice, or maybe my</p> <p>20 brother and Jill Rakauski. But I wasn't a direct</p> <p>21 participant. And that was with my mother and Cascino</p> <p>22 Vaughan.</p> <p>23 MR. McCOY: And for the record,</p> <p>24 there was a time when Jill Rakauski was an attorney</p> <p>25 at Cascino Vaughan Law Offices. She hasn't been an</p>	<p>1 A Well, ask away.</p> <p>2 Q Okay. So when did you first become aware that your</p> <p>3 father had filed a lawsuit -- or your mother had</p> <p>4 failed a lawsuit on behalf of your father's estate?</p> <p>5 A That was sometime after my father had passed away.</p> <p>6 Maybe '97, '98. I just knew it was -- it was -- it</p> <p>7 may even have started before that. I don't know. I</p> <p>8 wasn't directly involved.</p> <p>9 Q So you were aware as early as '97 or '98 that a</p> <p>10 lawsuit had been filed on behalf of your father's</p> <p>11 estate?</p> <p>12 A I am vaguely aware. I don't remember the dates. I</p> <p>13 wasn't involved.</p> <p>14 Q Okay. At what point in time did you start consulting</p> <p>15 with your mother about the lawsuit?</p> <p>16 A Whenever she would call. We'd be on the phone back</p> <p>17 and forth on a fairly regular basis just because she</p> <p>18 was my mother.</p> <p>19 Q Okay. Were you acting in your role as an attorney</p> <p>20 for your mother when you were on those calls or just</p> <p>21 as a son?</p> <p>22 A Probably both. It's kind of hard to distinguish when</p> <p>23 your -- your mother asks you questions. You know,</p> <p>24 she did pay, you know, a lot of my schooling, so I</p> <p>25 didn't feel like, Okay, Mom, now I need a retainer</p>
<p style="text-align: center;">Page 87</p> <p>1 attorney here for at least 12 years, I'd say.</p> <p>2 MR. LEE: I know that, Bob.</p> <p>3 Thanks.</p> <p>4 Q (By Mr. Lee) So were you involved -- well, what</p> <p>5 paperwork did you help your mother sign on behalf of</p> <p>6 the estate?</p> <p>7 A Well, I don't know. It's been, you know, somewhere</p> <p>8 in the past. It was -- if she had questions, she'd</p> <p>9 call me and we'd talk about things, you know, "What</p> <p>10 is this?" you know, or, "What is this? What does</p> <p>11 this mean?" and things of that nature. So I would</p> <p>12 just try to talk her through it. She could get it</p> <p>13 and understand it.</p> <p>14 Q Okay.</p> <p>15 A And I hope you don't ask me for everything that's</p> <p>16 gone on here, because this has gone on for 20 years,</p> <p>17 so...(Pause.)</p> <p>18 Q Well, I'm going to ask you about your recollection of</p> <p>19 what's gone on.</p> <p>20 A Well --</p> <p>21 Q And I'm going to ask you if you have any documents.</p> <p>22 I'm going to ask you where those documents would be.</p> <p>23 I'm going to ask you if they've been produced. I'm</p> <p>24 going to ask you all that stuff, because that is at</p> <p>25 issue.</p>	<p style="text-align: center;">Page 89</p> <p>1 agreement.</p> <p>2 Q Did you ever represent your mother for any other</p> <p>3 legal purposes?</p> <p>4 A No, not that I recall.</p> <p>5 Q Okay. Were you at all involved in the choice to</p> <p>6 retain Cascino Vaughan Law Offices to represent your</p> <p>7 father's estate?</p> <p>8 A No. I had no say in that whatsoever.</p> <p>9 Q Since you've become the administrator of your</p> <p>10 father's estate, have you entered into an agreement</p> <p>11 with Cascino Vaughan regarding the representation of</p> <p>12 your father's estate?</p> <p>13 A No.</p> <p>14 Q So whatever agreement was in place between your</p> <p>15 mother and Cascino Vaughan when she was the special</p> <p>16 administrator of your father's estate has just</p> <p>17 carried over?</p> <p>18 A That would be -- that's my assumption. And I don't</p> <p>19 know if it was with my mother or my dad. As I said,</p> <p>20 I don't know if he was involved in it at that point</p> <p>21 or not.</p> <p>22 Q Have you ever seen a written agreement between the</p> <p>23 estate and Cascino Vaughan Law Offices?</p> <p>24 A No. As a matter of fact, I requested it and I looked</p> <p>25 for it, but I believe they sent it to me, but I have</p>

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<p>1 not found it.</p> <p>2 Q Okay. Is your belief that there is such a written</p> <p>3 agreement?</p> <p>4 A Yes, I believe there is.</p> <p>5 Q Is it your belief that that written agreement touches</p> <p>6 on who has authority to resolve the case?</p> <p>7 A I -- you know, I -- you know, maybe I'm naive, but I</p> <p>8 always assume the client has that decision.</p> <p>9 Q Of course, the client could give express direction in</p> <p>10 a written agreement to his attorneys to resolve the</p> <p>11 case as they see fit, right?</p> <p>12 A I have never seen that. I have never requested it of</p> <p>13 my clients. And I have never seen that occur,</p> <p>14 frankly.</p> <p>15 Q But you don't know whether the estate ever gave that</p> <p>16 authority to Cascino Vaughan Law Offices or not; is</p> <p>17 that correct?</p> <p>18 A I -- I am not aware of them actually having that</p> <p>19 authority.</p> <p>20 Q Okay.</p> <p>21 A And in my discussions with them, that has never</p> <p>22 seemed to be the case.</p> <p>23 Q Okay. But you don't know one way or the other</p> <p>24 whether that authority was ever given?</p> <p>25 A I don't know if there's written authority that says</p>	<p>1 for it, has not been produced; is that correct?</p> <p>2 A You mean the --</p> <p>3 MR. McCOY: Objection. Objection,</p> <p>4 again, to the question that has been posed for reasons</p> <p>5 of foundation and so on.</p> <p>6 Could you read that question back one more time</p> <p>7 for me?</p> <p>8 MR. LEE: I'll ask a new question.</p> <p>9 Q (By Mr. Lee) Sir, do you still have Exhibit 2 in</p> <p>10 front of you?</p> <p>11 A I do.</p> <p>12 Q Could you turn to Page 1 of the requests for</p> <p>13 production?</p> <p>14 A Okay.</p> <p>15 Q Could you read for us, please, what the first request</p> <p>16 is?</p> <p>17 A You mean under "General Response" or Item 1, "All</p> <p>18 documents..."?</p> <p>19 Q Item 1, "All documents..."</p> <p>20 A "All documents that constitute your agreement with</p> <p>21 CVLO to engage or retain them as your attorneys in</p> <p>22 the federal court action."</p> <p>23 Q Okay. And that would include your retention</p> <p>24 agreement with CVLO, wouldn't it?</p> <p>25 A I don't know.</p>
<p>1 that. I -- I am -- my presumption is -- and I</p> <p>2 believe I'm entitled to that presumption -- is that</p> <p>3 that is not the case, that I make the decisions.</p> <p>4 Q Okay. And you're entitled to whatever presumption</p> <p>5 you want to have. I'm not going to try and --</p> <p>6 A It's --</p> <p>7 Q -- move you off of that.</p> <p>8 A It's a little more than that. I'm the client.</p> <p>9 Q But if there were a written agreement that --</p> <p>10 A Yeah.</p> <p>11 Q -- is operating --</p> <p>12 A Well, written agreements can be revoked.</p> <p>13 Q Have you ever revoked --</p> <p>14 A If I'm the -- if I'm the client -- I can tell you</p> <p>15 that if I'm the client, they're going to do what I</p> <p>16 tell them to do. If they don't like it, they can</p> <p>17 leave and I can get somebody else.</p> <p>18 Q Have you ever revoked any provision of the agreement</p> <p>19 between the estate and Cascino Vaughan Law Offices?</p> <p>20 A No, I don't feel that I've had to.</p> <p>21 Q Okay. Do you believe there is a written agreement</p> <p>22 with regard to the representation between the estate</p> <p>23 and Cascino Vaughan Law Offices?</p> <p>24 A Yes, I do.</p> <p>25 Q And that agreement, despite the fact that we asked</p>	<p>1 Q Okay. What's the second request?</p> <p>2 A "All documents that constitute your agreement with</p> <p>3 CVLO to engage or retain them as your attorneys in</p> <p>4 the state court action."</p> <p>5 Q That would also cover your retention agreement with</p> <p>6 CVLO, wouldn't it?</p> <p>7 A No. I don't know anything about a state court</p> <p>8 action.</p> <p>9 Q When did you become the special administrator again?</p> <p>10 A As I said, it was sometime in the 2000s, and I don't</p> <p>11 know the exact date.</p> <p>12 Q Was there a state court action pending at that time?</p> <p>13 A I have no idea. I'm not aware of any state court</p> <p>14 action, to tell you the truth.</p> <p>15 Q As special administrator of the estate, you've</p> <p>16 succeeded to the authority that your mother had prior</p> <p>17 to her death, correct?</p> <p>18 A Yes. But I don't know everything that went on with</p> <p>19 my mother and what went before.</p> <p>20 Q But if you were still the special administrator of</p> <p>21 the estate, and the state court action was still</p> <p>22 proceeding, you were responsible for that state court</p> <p>23 action as a --</p> <p>24 A Well, I'm --</p> <p>25 Q -- special administrator, correct?</p>

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<p>1 A Well, I'm -- yeah, I'm -- I'm the client. I would 2 have heard from -- from the attorneys, I presume. 3 Q And it's your testimony that the agreement, whatever 4 agreement your mother had on behalf of the estate 5 with CVLO, has carried over to your representation of 6 the estate; is that right?</p> <p>7 A That is -- that is my understanding, is that it 8 would. That was my intention that it would carry 9 over.</p> <p>10 Q And so whatever agreement between your mother as 11 special representativity of the estate and you as 12 special representative of the estate, with regard to 13 the state court action, would be responsive to 14 Request No. 2, correct?</p> <p>15 A I would -- I would assume so, but I believe they did 16 respond with an objection.</p> <p>17 Q They did. And I want to get to the basis of that 18 objection. To the extent that objection has anything 19 to do with the authority to settle the case or not, 20 it's --</p> <p>21 A Well --</p> <p>22 Q -- relevant to the issues we're talking about here, 23 isn't it?</p> <p>24 A Well, no, I wouldn't --</p> <p>25 MR. McCOY: Let me object. You're</p>	<p>1 to me. I rejected it.</p> <p>2 MR. LEE: Okay.</p> <p>3 THE WITNESS: And it was that 4 simple. And in my opinion, I have that authority, I 5 had that authority, I exercised that authority. And 6 nobody was given any authority that's contrary to 7 that.</p> <p>8 Now, if someone asserts that they have had a 9 different opinion or a different authority, that 10 would be news to me. Because people always asked me 11 whether or not, you know, we could do this, and is 12 this appropriate or not, and I would talk to them.</p> <p>13 So nobody approached me from the standpoint of, 14 We are going to settle this here. The standpoint 15 was, We're going to have a settlement. It's going to 16 be this amount, okay? And I would say "yes." So if 17 there was a written agreement, and there is, I doubt 18 very much there was authority handed to Cascino 19 Vaughan.</p> <p>20 But my course of transaction with Cascino Vaughan 21 was, I'm in charge. I don't care what anybody else 22 says. And to the extent there was an agreement, that 23 changed through the course of conduct between me and 24 Cascino Vaughan.</p> <p>25 So the answer to your question ultimately is, no,</p>
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<p>1 asking him --</p> <p>2 THE WITNESS: If you're asking --</p> <p>3 MR. McCOY: -- for legal 4 conclusions.</p> <p>5 THE WITNESS: Yeah.</p> <p>6 MR. McCOY: And he can go ahead and 7 answer, but --</p> <p>8 THE WITNESS: Yeah.</p> <p>9 MR. McCOY: -- you know, this is 10 within the scope of these legal conclusions.</p> <p>11 MR. LEE: Okay.</p> <p>12 THE WITNESS: I'll --</p> <p>13 MR. LEE: I take that.</p> <p>14 THE WITNESS: I'll give you --</p> <p>15 I'll give you my --</p> <p>16 MR. McCOY: The basis for asserting 17 the objection is obviously an objection I asserted, 18 I signed off on it, and, you know, that's my judgment 19 as his lawyer. You can ask him what he thinks about 20 it, but he's not the lawyer for that objection. Go 21 ahead.</p> <p>22 THE WITNESS: Maybe not a capable 23 lawyer either. I can give you what my conclusion is. 24 My conclusion is, is that the client controls the 25 transaction. The Owens-Illinois offer was proposed</p>	<p>1 I have the authority, and only I have the authority.</p> <p>2 I don't know Mr. Cascino. I don't know Mr. Vaughan.</p> <p>3 I've never spoken to either one of them. They have 4 never spoken to me. I've not -- you know, aside from 5 maybe a form letter that has come or something, 6 they've never communicated with me. I've talked to 7 Jill Rakauski. I've talked to Bob McCoy. The OI 8 offer came from Mr. McCoy to me: What do you want to 9 do?</p> <p>10 Q (By Mr. Lee) All right. However, you don't know one 11 way or the other whether the written retention 12 agreement between Cascino Vaughan and the estate has 13 any provisions about who has authority to settle the 14 case; is that right?</p> <p>15 A That's right. I don't know if that is in there, and 16 I don't care. Because --</p> <p>17 Q I understand that you don't care.</p> <p>18 A Yeah.</p> <p>19 Q But you understand that we might care, right?</p> <p>20 A You might care. But to the extent that you might 21 care if it's in there, I can tell you, that from our 22 course of conduct, it has been revoked, if it is in 23 there. Because I've always had the decision-making 24 authority.</p> <p>25 Q And whether the authority was revoked or not, since</p>

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<p>1 that's been put at issue, would be something for a 2 judge or jury to decide?</p> <p>3 A Well, I'm -- I'm not -- I'm not certain about that.</p> <p>4 Q And that would be the evidence one way or the other, 5 wouldn't it?</p> <p>6 A Well, I --</p> <p>7 MR. MCCOY: Objection. Objection.</p> <p>8 Objection. Now, you're interrupting his answers.</p> <p>9 And that's not proper either. And again, this is</p> <p>10 getting into this, but we've already had the standing 11 objection on legal conclusions. I won't keep 12 asserting that. But let me just -- he shouldn't be 13 cut off in his answers.</p> <p>14 And also, for the record, the order appointing 15 special administrator, which has been attached to the 16 motions filed by Owens-Illinois, and I think even my 17 firm also in this case, was part of the court record, 18 says that order -- it's dated March 20 -- March 3, 19 2009, signed by Judge Robreno in the Eastern District 20 of Pennsylvania.</p> <p>21 And it says, Order appointing special 22 administrator. This matter coming on to be heard on 23 plaintiff's motion for appointment of special 24 administrator and to amend the complaint to reflect 25 said appointment, it is hereby ordered: Gary Suoja</p>	<p>1 that's part of what we're going to have to go talk to 2 about with the judge when we talk about the 3 protective order that you've sought with regard to 4 your objections, and this is all relevant for that 5 purpose, Bob.</p> <p>6 MR. MCCOY: That's fine. That's --</p> <p>7 like I say, that's my objection that I assert. He 8 didn't assert the objection. You and I can have that 9 issue with the judge if we need to.</p> <p>10 MR. LEE: But what he knows about 11 the agreement goes to the validity of your objection, 12 Bob.</p> <p>13 MR. MCCOY: That's -- I'm not 14 questioning that you can ask him about his knowledge 15 under the agreement. He said he -- he understood 16 that he's stepped into the -- I'm paraphrasing his 17 words, so I'm not going to -- I'm not trying to 18 change it.</p> <p>19 But what I've heard him say is that he's stepped 20 into the role of being the person for carrying out 21 whatever duties there are as special administrator, 22 and pursuant to whatever the past history of dealings 23 has been, subject to whatever changes are 24 implemented, because he's now the person. Go ahead. 25 You can ask questions along those lines.</p>
<p style="text-align: center;">Page 99</p> <p>1 is appointed special administrator solely for the 2 purposes of pursuing the above lawsuit. Complaint is 3 hereby amended on its face, substituting Gary Suoja 4 individually and as special administrator for the 5 estate of Oswald S. Suoja as plaintiff herein."</p> <p>6 So those decisions are in the order reflecting 7 -- or made by Judge Robreno. And I don't understand 8 any questioning that would be attempting to undo an 9 order which says he is appointed special administrator 10 solely for the purposes of pursuing the above lawsuit.</p> <p>11 Subject to that, go ahead with your questions, 12 Josh.</p> <p>13 MR. LEE: I understand that, Bob. 14 And you can go ahead and make your objections. I 15 didn't ask him anything about the order appointing. 16 I'm trying to find out, since you've refused to 17 produce it, whether or not there are any provisions 18 within the retention agreement that talk about who 19 has authority to resolve cases.</p> <p>20 MR. MCCOY: You can ask him what 21 his knowledge is on that. It's fine.</p> <p>22 MR. LEE: Right. And he's telling 23 me he doesn't have any knowledge, which means that 24 I'm going to have to come back and ask for that 25 again. And that's part of the discovery here, and</p>	<p style="text-align: center;">Page 101</p> <p>1 MR. LEE: Which is what I was 2 doing.</p> <p>3 We need to change the tape, Bob. It's now about 4 1:00. Mr. Suoja, do you want any lunch?</p> <p>5 THE WITNESS: No.</p> <p>6 MR. LEE: Okay. We'll take five, 7 change the tape.</p> <p>8 THE VIDEOGRAPHER: All right. This 9 is the end of Disc 1. Deposition will continue on 10 Disc 2. Time now is 1:04 p.m. Going off record.</p> <p>11 (Pause in proceedings from 12 1:04 p.m. to 1:09 p.m.)</p> <p>13 THE VIDEOGRAPHER: Back on record.</p> <p>14 This is the beginning of Disc 2 in the continuing 15 deposition of Gary Suoja. Time now is 1:09 p.m.</p> <p>16 Q (By Mr. Lee) When you signed discovery responses on 17 behalf of -- well, when you signed discovery 18 responses in this case, you understood that you're 19 answering on behalf of the estate, correct?</p> <p>20 A Yes, that's what I signed as, as the special 21 administrator.</p> <p>22 Q And as signing on behalf of the estate, you 23 understood that when you sign discovery responses, 24 you have an obligation to investigate whatever 25 information's available to the estate, correct?</p>

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<p>1 A I investigated what information I had available to 2 me.</p> <p>3 Q And to the rest of the estate, correct?</p> <p>4 A To me.</p> <p>5 Q Okay. So how can you sign a document on behalf of an 6 estate if you haven't investigated the information 7 that's available to the estate?</p> <p>8 A Because I didn't have anything except what was 9 available to me.</p> <p>10 Q Well, you have whatever information's available to 11 your lawyers as well, right?</p> <p>12 A Well, and I talked to my lawyers about it, and that 13 was the information that I had. They didn't have 14 anything in addition, and so it was what was 15 available to me.</p> <p>16 Q When you sign on behalf of the estate and say that 17 all the information that's available has been 18 produced, you are representing that the estate has no 19 additional information; is that correct?</p> <p>20 A Well, when -- yeah, when I sign on behalf of the 21 estate, yes, my statement is correct.</p> <p>22 Q Well, but what you're representing is that there's no 23 more information available, not just to you --</p> <p>24 A When --</p> <p>25 Q -- but to the estate, right?</p>	<p>1 there's no additional information available to the 2 estate, correct?</p> <p>3 A Well, when I sign it, it is true and correct to the 4 best of my knowledge. I know you want me to say 5 something else. I'm not going to say it. I'm 6 telling you my answer. My answer is, it is true and 7 correct to the best of my knowledge.</p> <p>8 Q And I'm asking you a different question, sir.</p> <p>9 A Well, I'm giving you the same answer to your 10 question.</p> <p>11 Q When you are signing and saying that, "I've produced 12 all the information," you're saying that there's no 13 more information that you're aware of that's 14 available to the estate; is that right?</p> <p>15 A No. What I'm saying when I signed, is this 16 information is true and correct to the best of my 17 knowledge. That's what I'm saying. Now, if you 18 don't like that, fine. That's what I'm saying.</p> <p>19 Q Okay.</p> <p>20 MR. McCOY: Josh, let me object 21 here. I don't know why you need to repeat the 22 same questions five times. I know your firm has 23 the video on client abuse at depositions as a 24 training measure that attorneys review. But I 25 don't really think that that should be employed in</p>
<p style="text-align: center;">Page 103</p> <p>1 A When I sign the statement, it is correct. To the 2 best of my knowledge and ability, it's correct.</p> <p>3 Q Okay. And I'm just trying to make sure I'm clear 4 what you're signing. You're not just saying, I, Gary 5 Suoja, as Gary Suoja, have no more information. 6 You're saying the estate has no information, right?</p> <p>7 A I'm saying that what I sign is true and correct to 8 the best of my knowledge.</p> <p>9 Q Are you making that representation as you as a person 10 or on behalf of the estate?</p> <p>11 A It's based on what I'm signing. What I sign is what 12 I'm saying, is it's to the best of my knowledge and 13 belief, it's true and correct.</p> <p>14 Q As the personal representative of the estate or just 15 as Gary Suoja?</p> <p>16 A Well, how --</p> <p>17 Q Suoja?</p> <p>18 A -- how did I -- how did I sign it? What does my 19 signature say?</p> <p>20 Q As special representative, sir.</p> <p>21 A Well, then -- then it's true and correct to the best 22 of my knowledge as special representative.</p> <p>23 Q I'm just trying to figure out, when you sign that as 24 the special representative of the estate, what you're 25 representing is, to the best of your knowledge,</p>	<p style="text-align: center;">Page 105</p> <p>1 this deposition. Go ahead.</p> <p>2 MR. LEE: Bob, I appreciate that 3 you're making an objection. Are you making an 4 objection to the form or the foundation? So that I 5 have it --</p> <p>6 MR. McCOY: I'm objecting to the 7 repetitive questioning. I don't know whether that's 8 a form or foundation objection. But it's a repetitive 9 question. He's already answered these questions. But 10 go ahead. Keep going.</p> <p>11 MR. LEE: And I don't believe that 12 I've gotten an answer to the question, which is why I 13 re-asked it. And I'm entitled to get an answer to 14 the question that I asked.</p> <p>15 THE WITNESS: And I will give you 16 the same answer.</p> <p>17 Q (By Mr. Lee) Okay. So are you refusing to answer 18 the question that I actually asked?</p> <p>19 A No. I'm -- I'm answering the question you asked. 20 When I sign it, it is true and correct to the best of 21 my knowledge.</p> <p>22 Q When you verify that all information has been 23 provided, are you stating that all information 24 available to the estate has been provided or just 25 information that's in the possession of Gary Suoja?</p>

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<p>1 A It's -- the information that I give you, the answer I 2 give you is true and correct to the best of my 3 knowledge. To the best of my knowledge, it's what I 4 have available to me and what -- the information that 5 I get from my attorneys.</p> <p>6 Q Have you ever, in response --</p> <p>7 A I can't -- oh, I'm sorry. Go ahead.</p> <p>8 Q Have you ever, in responding to discovery on behalf 9 of the estate, done anything to determine what 10 information is available to the estate as opposed to 11 Gary Suoja as an individual?</p> <p>12 A By asking my attorneys. I can't ask my dad, and I 13 can't ask my mother.</p> <p>14 Q Can you ask --</p> <p>15 A So I ask the attorneys.</p> <p>16 Q Can you ask your siblings?</p> <p>17 A I am aware that my siblings do not have any 18 information.</p> <p>19 Q Okay. Would you --</p> <p>20 A I could ask your firm. If you will produce the 21 information, I'll be happy to go through it and give 22 you another answer.</p> <p>23 Q About which information, sir?</p> <p>24 A Well, all the information you're asking for. Give me 25 access to your files. I'll be happy to produce some</p>	<p>1 A That's a product, isn't it?</p> <p>2 Q No, it's not. It's a mineral.</p> <p>3 A Then what do you -- well, isn't that the product that 4 was used?</p> <p>5 Q No, sir.</p> <p>6 A So what are -- what are you asking then? I guess I 7 don't understand your question.</p> <p>8 Q Sure. So you could not say -- you could not sign an 9 affidavit saying that your father was exposed to -- 10 to a product manufactured by any specific 11 manufacturer; is that right?</p> <p>12 A I do not have any specific knowledge of my dad 13 dealing with a specific product on a specific job. I 14 just don't have that information.</p> <p>15 Q And I'm not even going to that level of specificity. 16 You couldn't sign an affidavit saying that your 17 father was exposed to any specific product by any 18 specific manufacturer, could you?</p> <p>19 A That's not necessarily true. I think on some of the 20 names, you know, over the course of times, as we 21 discussed earlier, some of the names are familiar. 22 And I know that my dad dealt with John Mansville, 23 Owens, Owens Corning, Owens-Illinois. I don't know 24 the distinction, really.</p> <p>25 You know, those are names that were around. So</p>
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<p>1 more information.</p> <p>2 Q Well, sir --</p> <p>3 A Okay. Let's -- let's go on.</p> <p>4 Q That's fine. Have you, sir -- well, let me ask you 5 this.</p> <p>6 Could you testify truthfully that your father has 7 been exposed to any particular product by any 8 manufacturer?</p> <p>9 A I do not know what specific products my father has 10 been exposed to.</p> <p>11 Q So you, for instance, could not sign an affidavit 12 stating that your father was exposed to any product; 13 is that correct?</p> <p>14 A No, that's not true. I knew that he was exposed to 15 asbestos.</p> <p>16 Q Okay. That's a good gloss. You could not sign an 17 affidavit saying, My father was exposed to a product 18 manufactured by any specific company; is that true?</p> <p>19 A No, I know generally the names of the people that 20 produce products. But I do not know specifically 21 when or what products he was exposed to at what time.</p> <p>22 Q You don't know specifically what products your father 23 was exposed to at all; is that right?</p> <p>24 A I know he's exposed to asbestos.</p> <p>25 Q But --</p>	<p>1 they were around, you know, because there was 2 construction. They were around because, you know, 3 dad would have stuff with him. So I know that those 4 occurred. But I couldn't tell you exactly when. I 5 couldn't tell you if I'm mixing them up with later 6 construction activity on my own. I just -- I know he 7 worked with asbestos, and I know he covered pipes.</p> <p>8 Q And that's what I'm trying to get at. In order to 9 sign an affidavit, you'd have to be able to sign 10 truthfully that you know for a fact that your father 11 worked with a product by that manufacturer, right?</p> <p>12 A Well, and I could say that with regard to certain 13 products because I've seen them around before.</p> <p>14 Q But you've never seen your father work with them, 15 right?</p> <p>16 A I have not seen my father work with them.</p> <p>17 Q Your father never told you he worked with any 18 specific product; is that right?</p> <p>19 A Not that I recall.</p> <p>20 Q Okay. So --</p> <p>21 A But I would see boxes and names. But, I mean, it 22 wasn't -- it wasn't --</p> <p>23 Q And you can't remember the names on any of the boxes 24 that you saw, right?</p> <p>25 A Not at any individual time, you know. And I'm</p>

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<p>1 thinking back to when we were living in the house in 2 Rockford.</p> <p>3 Q Okay.</p> <p>4 A You know, did I see this particular box or that 5 particular box? And the answer is, I can't say for 6 sure what it was.</p> <p>7 Q Right. Which means that you can't say one way or the 8 other that your father worked with any particular 9 product made by a particular manufacturer; is that 10 right?</p> <p>11 A At a particular time.</p> <p>12 Q Ever?</p> <p>13 A No, that's not true. Because --</p> <p>14 Q Okay.</p> <p>15 A Because we knew what my dad did. You know, and it -- 16 you know, it's like saying you're a lawyer. You 17 never worked with books. You don't know what books 18 your dad worked with. You don't know, you know, what 19 specific books he worked with. Did he deal with 20 West? Did he deal with AI? And the answer is "no." 21 Did he work with books? Yes, because you knew that's 22 what he did. That was his job. And that's what my 23 dad did. My dad was an asbestos worker. That was 24 his life.</p> <p>25 Q Sure.</p>	<p>1 Q Okay. You wouldn't be willing to do so under 2 penalties of perjury, would you?</p> <p>3 A Well, I -- I wouldn't do it under penalty of perjury 4 unless I was -- I was certain.</p> <p>5 Q Have you signed affidavits in the past?</p> <p>6 A Yes, I have.</p> <p>7 Q Have you signed them both in litigation on behalf of 8 your father and in other circumstances?</p> <p>9 A I -- I know I've signed affidavits in other cases, in 10 other situations. I can't tell you if I've signed 11 affidavits in this particular case or not. I'm 12 assuming I have, but I don't recall.</p> <p>13 Q You don't recall ever signing any --</p> <p>14 A No, I --</p> <p>15 Q -- affidavit in this case?</p> <p>16 A I -- I said I don't recall. You know, I signed an 17 affidavit here on these -- your Exhibit No. 2.</p> <p>18 Q Okay. Do you recall signing an affidavit in 19 opposition to a motion to enforce a settlement in 20 this case?</p> <p>21 A Yes.</p> <p>22 Q Okay. Do you as a lawyer have -- you ever asked your 23 clients to sign affidavits?</p> <p>24 A Yes.</p> <p>25 Q Okay. Do you generally know the purpose of an</p>
Page 111	Page 113
<p>1 A So I know he dealt with those products.</p> <p>2 Q I'm not --</p> <p>3 A Which specific ones? I can't tell you.</p> <p>4 Q And that's the thing. I'm asking you, could you sign 5 an affidavit stating which specific manufacturers' 6 products your father worked with?</p> <p>7 A No. Not at any given time, no.</p> <p>8 Q And that's not my question. I'm not asking for a 9 specific time. Could you sign an affidavit stating 10 which manufacturers' products your father worked 11 with?</p> <p>12 A No. Probably not.</p> <p>13 Q Okay.</p> <p>14 A Depending on how trickily it's worded. But 15 generically, I think I could.</p> <p>16 Q Generically, you could say he worked with asbestos 17 products, right?</p> <p>18 A That's correct.</p> <p>19 Q But you could not --</p> <p>20 A And he worked at these places.</p> <p>21 Q And you could state where you know he worked?</p> <p>22 A Right.</p> <p>23 Q But you could not state that he worked with a 24 specific manufacturer's products?</p> <p>25 A Probably not.</p>	<p>1 affidavit?</p> <p>2 A Yes.</p> <p>3 Q Do you understand that to be similar to providing 4 testimony in front of a court?</p> <p>5 A Yes.</p> <p>6 Q And so it's under the same oath like what you took 7 here today; is that correct?</p> <p>8 A That's correct.</p> <p>9 Q Okay. Do you think it's important that when -- 10 before you sign an affidavit, you ensure that the 11 information in the affidavit is correct and true?</p> <p>12 A As correct as you possibly can at the time, yes.</p> <p>13 Q Okay. And that's because it's intended for a court 14 to rely on; is that correct?</p> <p>15 A Well, it's -- it's not because it's for a court to 16 rely on. It's because it's the truth.</p> <p>17 Q Okay. As a lawyer, do you believe that when you 18 sign a statement attesting to a matter in court, 19 it's reasonable for another party to rely on those 20 statements?</p> <p>21 A I would assume that would be the case, yes.</p> <p>22 Q Okay. And as a lawyer, do you understand how 23 important it is that you are careful and accurate in 24 any statements you file before a court because they 25 can be held against you as an admission later on?</p>

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<p>1 A That's correct. Or it could be just used to 2 contradict what you're testifying to. 3 Q What lawyers sometimes call is impeachment? 4 A That's -- that's correct. 5 Q Okay. And you're familiar with that concept as well? 6 A That's correct. 7 Q As a trial attorney, you've probably used it a couple 8 of times? 9 A Well, I wouldn't call myself a trial attorney, but I 10 have been in court, yes. 11 Q When you were in JAG, you were -- you did some 12 trials, right? 13 A I did. 14 Q Can you impeach people in military trials? 15 A Oh, absolutely. It's the federal rules in JAG. 16 Q I'm assuming -- 17 A Military court. 18 Q -- you probably did that once or twice? 19 A I did. 20 Q Okay. So you're really familiar with the idea that 21 people's prior statements can be used against them? 22 A That's correct. 23 Q And you understand that that's especially true when 24 it's a statement that's been made to a court? 25 A It's not especially true when it's made to a court.</p>	<p>1 Q All right. If you saw him in court or walking down 2 the street, you wouldn't be able to figure out who he 3 was, would you? 4 A No, I would not. 5 Q All right. Have you verified -- other than what 6 you've got in front of you as Exhibit 2, have you 7 verified other discovery responses in litigation 8 involving your father's estate? 9 A I'm not sure I understand that question. Because 10 this is -- this is one. I think there were some -- 11 there may have been some other interrogatories. I'm 12 not exactly sure, but...(Pause.) 13 Q Do you recall one way or the other verifying 14 discovery responses in this case other than what 15 you've got in front of you as Exhibit 2? 16 A I -- I don't recall off the top of my head, no. 17 MR. LEE: Let's go ahead and mark 18 this. 19 (Exhibit No. 3 marked for 20 identification.) 21 Q (By Mr. Lee) I'm going to hand you what we've marked 22 as Exhibit 3 for your deposition. Do you see that as 23 Plaintiff's First Response to Standard 24 Interrogatories dated 6/20/2012? 25 A Yes, I do.</p>
<p style="text-align: center;">Page 115</p> <p>1 It's still the question of what is the truth of the 2 statement made. 3 Q Okay. 4 A And I don't see an additional significance. It's 5 either a true statement or -- 6 Q Or not? 7 A -- or a question. 8 Q Okay. 9 A Well, it -- you know, or not? Yeah. As the longer 10 we live, the more we find that people look at what we 11 say, and they try to come up with a different 12 interpretation. And so the statements may still be 13 true. It's just that people are looking at it with 14 different glasses. 15 Q Okay. 16 A That's why we -- that's why we have trials. 17 Q As I understand in looking at your affidavit in this 18 case and in talking with you today, you've never 19 talked to Mike Cascino; is that right? 20 A Not to my knowledge. 21 Q Okay. You wouldn't be able to pick him up out of a 22 lineup if you saw him? 23 A No, I would not. As a matter of fact, I'd hate to 24 even try. Because if it was a lineup, it wouldn't be 25 a good thing.</p>	<p style="text-align: center;">Page 117</p> <p>1 Q And that's in the case of Suoja v. Owens-Illinois? 2 A Yes, I assume that's the same Suoja, even though it's 3 misspelled. And I don't know what particular case 4 this is, because it is for the Eastern District of 5 Pennsylvania. 6 Q Okay. If you'll look -- well, let me ask you this: 7 Have you ever been the personal representative for 8 another case involving a Suoja? 9 A No. 10 Q Okay. Will you go ahead and look at the very end of 11 this document that we've marked as Exhibit 3? 12 A What is the very end? 13 Q The last page. 14 A Okay. 15 Q You there? 16 A I am here. Declaration of Persons Making the 17 Answers? 18 Q Yes, sir. 19 A Yes. 20 Q Who is the person making the answers to these 21 interrogatories? 22 A That is my signature. 23 Q So Gary -- does it say that for the answers, it's 24 Gary Suoja who's making the answers to these? 25 A That's correct.</p>

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<p>1 Q And you signed them?</p> <p>2 A That's correct.</p> <p>3 Q And you signed them under penalty of perjury?</p> <p>4 A That's correct.</p> <p>5 Q That they were true and correct?</p> <p>6 A That's correct.</p> <p>7 Q Okay. And before you would have signed these, you 8 would have gone through to make sure that the answers 9 were correct?</p> <p>10 A That's correct.</p> <p>11 Q And you would have consulted with any other person 12 who's helping you prepare them to make sure that the 13 answers were true and correct, correct?</p> <p>14 A That's correct. And that would have been -- that 15 would have been Cascino Vaughan.</p> <p>16 Q Okay. Could you turn to Page 4, please?</p> <p>17 A Okay.</p> <p>18 Q Do you see an answer to No. 14 -- or Request No. 14 19 here on the page there?</p> <p>20 A Item 14.</p> <p>21 Q Do you see it?</p> <p>22 A "State whether you have ever filed a lawsuit for 23 personal injury or a claim for Social Security 24 disability benefits, and if so, state the title."</p> <p>25 Yes.</p>	<p>1 to be used over and over again, have you?</p> <p>2 A No, absolutely not. I -- you know, actually, I 3 generally sort of recognize these. But, yeah, no, 4 this was -- this was not a blanket verification. I 5 went through each one.</p> <p>6 Q Did you ask your lawyers whether there had ever been 7 a case filed, previous case filed on behalf of your 8 father?</p> <p>9 A I don't remember asking that specific questions.</p> <p>10 MR. McCOY: Let me object, object 11 to that. That's a communication with counsel that is 12 not subject to the limited waiver that we've provided 13 about enforcement of the settlement agreement. The 14 existence of prior cases had no bearing on that.</p> <p>15 MR. LEE: You're objecting on 16 behalf of privilege?</p> <p>17 MR. McCOY: I'm asserting the 18 privilege. I mean, Gary's the client. He can waive 19 it. But I'm asserting privilege.</p> <p>20 MR. LEE: I just want to be clear, 21 Bob. I'm not asking anybody to waive it. I'm just -- 22 I want to make sure I understand the objection. And 23 the objection is that the information is privileged; 24 is that correct?</p> <p>25 MR. McCOY: Right. But I --</p>
<p style="text-align: center;">Page 119</p> <p>1 Q And you were answering these as the personal 2 representative for the estate of Oswald Suoja, 3 correct?</p> <p>4 A Yeah. Again, to the best of my knowledge and belief.</p> <p>5 Q What was your answer when we asked whether there'd 6 been a prior lawsuit?</p> <p>7 A Only this lawsuit.</p> <p>8 Q Meaning only the lawsuit filed against 9 Owens-Illinois, correct?</p> <p>10 A That's the only one I knew about.</p> <p>11 Q That's not actually true, is it?</p> <p>12 A I don't know.</p> <p>13 Q You still don't know that there's a prior lawsuit?</p> <p>14 A I -- I -- I've heard you reference a prior lawsuit, 15 but it, you know, does not ring a bell for me.</p> <p>16 Q Okay. And so you signed these on --</p> <p>17 A Well, I believe it was --</p> <p>18 Q Let's see if there's a date, actually.</p> <p>19 A -- in 2012.</p> <p>20 Q Okay. There's not a date on your declaration, but 21 the response is dated 6/20/2012, right?</p> <p>22 A Yeah. So it would have been signed at approximately 23 that time.</p> <p>24 Q And you have -- let me ask you this: You have never 25 signed a blanket verification for discovery that was</p>	<p style="text-align: center;">Page 121</p> <p>1 MR. LEE: Okay.</p> <p>2 MR. McCOY: -- also said, if Gary 3 wants to, he can waive it.</p> <p>4 MR. LEE: And I don't want to get 5 in between you and Mr. Suoja on that. Are you 6 directing Mr. Suoja not to answer the question on 7 behalf of privilege?</p> <p>8 MR. McCOY: I don't think I need to 9 direct him not to answer. He can make the judgment 10 on that question himself.</p> <p>11 Q (By Mr. Lee) Would you like to answer that question 12 now, sir?</p> <p>14 A I'm not aware of the other lawsuit, and I didn't hear 15 anything different from my attorneys.</p> <p>16 Q Okay. You're still not aware of the prior lawsuit to 17 this day?</p> <p>18 A I'm -- I'm aware of the talk about a potential prior 19 lawsuit, but that's -- you know, I don't know really 20 any specifics.</p> <p>21 Q Okay.</p> <p>22 A Just heard that there was some state court action. 23 But it's all been, you know, very recent. I don't 24 know really any of the specifics about it.</p> <p>25 Q Okay. Are you receiving any compensation for your</p>

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<p>1 work as special administrator for your father's 2 estate? 3 A No. 4 Q You said that you have made some distributions to 5 your siblings? 6 A That's correct. 7 Q Have you kept -- have they been distributed pro rata 8 or have you kept a larger provision? 9 A No, they went pro rata. 10 Q Okay. So equally split? 11 A That's correct. 12 Q Okay. How much? 13 A I -- you know, this has been going on so long, I 14 can't tell you. I didn't keep an accounting. There 15 is -- the last payment that came in was -- or 16 settlement was a fairly nominal number. And I recall 17 about \$500. But that there was supposedly going to 18 be another one following up. And I didn't distribute 19 that one. And -- and this has gone on and on and on. 20 So there's -- there's probably about \$500, 21 somewhere close to that. Maybe that was a settlement 22 amount and that's -- you know, after the attorney's 23 fees and costs, there's something less. But I was 24 just going, Who's going to write these checks for 25 this piddling amount until the next one comes? And</p>	<p>1 cases from the law firm of Cascino Vaughan, U.S. 2 District Court for the Western District of Wisconsin. 3 Q And then the title of the document is "Report 4 Pursuant to Administrative Order No. 12"? 5 A That's correct. 6 Q Okay. So what you've got in front of you is a Report 7 Pursuant to Administrative Order No. 12, correct? 8 A That's correct. 9 Q Signed by Michael Cascino? 10 A Signed by Michael P. Cascino. 11 Q Of the Cascino Vaughan Law Offices? 12 A That would appear to be the case. 13 Q Is the plaintiff for this case identified? 14 A Oswald F. Suoja, deceased. That would be my father. 15 Q Okay. And the case status here, do you see under 16 No. -- the third bullet down, No. 3, says "Case 17 Status - Defendant Identification"?</p>
<p>18 A Okay. 19 Q And Owens-Illinois is listed as a defendant there; is 20 that correct? 21 A I'm sorry. I don't see that. 22 Q Do you see 3d? 23 A 3d. Non-bankruptcy unsettled defendants. 24 Owens-Illinois. I see it. 25 Q Okay. And so Owens-Illinois is also identified on</p>	<p style="text-align: right;">Page 125</p> <p>1 Exhibit 4 as a defendant in this case; is that 2 correct? 3 A That would appear to be the case. 4 Q And do you see that also there's a representation as 5 to related pending court actions? Do you see that? 6 A Yeah. "Related pending court actions." Says "none." 7 Q Okay. If we go to the last page of this Exhibit 4, 8 do you see that it's dated Thursday, February 25th, 9 2010? 10 A What is the last page? 11 Q The last page is the last page, sir. 12 A And what is on this last page? The -- 13 Q Says "Settlement Report as of 2/3/2010." 14 A Okay. 15 Q It's the last page of the -- 16 A Sometimes the last pages fall off of stapled copies, 17 and that's why I wanted to know. 18 Q Okay. 19 A Okay. 20 Q Do you see the Settlement Report as of -- 21 A I see -- 22 Q -- 2/3/2010? 23 A -- the Settlement Report as of 2/3/2010. 24 Q So I'm going to actually mark, as Exhibit 4A for your 25 deposition, that last page. Will you confirm that</p>

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<p>1 the last page of Exhibit 4 and Exhibit 4A are the 2 same?</p> <p>3 A I have a -- I have a question here. There seems to 4 be an inconsistency. This is for the Eastern 5 District of Pennsylvania, but I don't see a date on 6 Mike Cascino's signature on the front. It says "File 7 Date: 8/5/99." And I'm -- and then I see a letter 8 that's dated '99 and St. Mary's report that's 9 dated -- you know, that's obviously related to my 10 dad's passing, which is in '96, and Duluth Clinic 11 cytology report, register of deeds dated January 14th 12 '97, and then this is a settlement report that's 13 dated in 2010. So I'm trying to correlate how 14 they -- how the dates line up.</p> <p>15 Q Have to talk to Mr. McCoy and Mr. Cascino about that.</p> <p>16 A Because -- because this -- yeah, this doesn't -- I 17 don't see any -- any date on the front page, so I'm 18 just wondering.</p> <p>19 Q That's a practice that you'd have to talk to Cascino 20 Law --</p> <p>21 MR. MCCOY: Let me just ask a quick 22 voir dire question here.</p> <p>23 Mr. Suoja, have you ever seen either of these 24 documents before they were just presented to you?</p> <p>25 THE WITNESS: I have not seen this</p>	<p>1 before?</p> <p>2 THE WITNESS: No. This is the 3 first time I've seen them.</p> <p>4 MR. MCCOY: All right. We can -- 5 you can go ahead, Josh.</p> <p>6 MR. LEE: Okay. Bob, just -- I'll 7 ask some -- a couple more questions to clarify so 8 that you have some confidence. You should be able to 9 find this in your records, because it was submitted 10 by your firm.</p> <p>11 Q (By Mr. Lee) Mr. Suoja, if you go back to the first 12 page of Exhibit 4, which is the caption page.</p> <p>13 A Yes.</p> <p>14 Q Do you also see that in the caption, there's a 15 specific designation for the specific case and the 16 case number?</p> <p>17 A I see that there is a designation of the Product 18 Liability Litigation No. Roman VI, civil action 19 number, and I presume to be the case number. This is 20 unusual case setting from my experience.</p> <p>21 Q And I can understand that.</p> <p>22 And then does the -- is there any other information 23 that tells us which case this relates to?</p> <p>24 A This document relates to cases from the law firm of 25 Cascino Vaughan Law Offices, Limited, U.S. Western</p>
<p style="text-align: center;">Page 127</p> <p>1 last one, no. Exhibit 4 I have not seen. Exhibit 4A 2 I have not seen before.</p> <p>3 MR. MCCOY: Okay. And 4A is what?</p> <p>4 THE WITNESS: 4A appears to be just 5 a -- another copy of the last page of Exhibit 4.</p> <p>6 MR. MCCOY: Okay.</p> <p>7 THE WITNESS: And I have --</p> <p>8 MR. MCCOY: Exhibit 4 -- and 9 Exhibit 4 is what?</p> <p>10 THE WITNESS: Exhibit 4 is the 11 Report Pursuant to Administrative Order No. 12. This 12 is in the Eastern District of Pennsylvania. District 13 Court, Eastern District of Pennsylvania, Civil Action 14 No. MDL 875. Report Pursuant to --</p> <p>15 MR. MCCOY: All right.</p> <p>16 THE WITNESS: -- Administrative 17 Order No. 12, and then that's -- that's Exhibit 4.</p> <p>18 And then Exhibit 4A is a repeat of the last page 19 of Exhibit 4. It is Thursday, February 25th, 2010, 20 Settlement Report as of 2/3/2010. "Name: Oswald F. 21 Suoja," and then it lists "Settlement." And it 22 lists --</p> <p>23 MR. MCCOY: So before today, have 24 you -- before you were presented these at the 25 deposition now, have you seen either Exhibit 4 or 4A</p>	<p style="text-align: center;">Page 129</p> <p>1 District Court for the Western District of Wisconsin, 2 Suoja Case No. 97, dash, 2307.</p> <p>3 Q When you were reading it before, you kind of missed 4 that part of it. This is the case that we're talking 5 about here today, isn't it?</p> <p>6 A I would presume so. As I recall, it went from the 7 Eastern District back to the Western District of 8 Wisconsin.</p> <p>9 Q And if you recall even more, it actually started in 10 the Western District of Wisconsin, got transferred to 11 the Eastern District of Pennsylvania, and then came 12 back, right?</p> <p>13 A -- you know, unfortunately, I didn't have any 14 knowledge of that. I only -- this -- when I talked 15 about that last few hundred dollars that we had 16 received in a settlement, at that time somebody 17 informed me -- because I thought we were pretty much 18 wrapped up, and somebody informed me that there was 19 still a case pending in -- another case pending of 20 some sort out of bankruptcy or whatever, but -- and 21 that this was it.</p> <p>22 And I -- when nothing was happening, I got 23 frustrated and went to the Internet. I found this 24 case by Googling, searching for my dad's name, and 25 found this litigation in the Eastern District of</p>

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<p>1 Pennsylvania, which I didn't understand how in the 2 hell it got there. So that's -- that's what I know 3 about it.</p> <p>4 MR. LEE: Okay. And so, Bob, I was 5 just asking those questions to clarify. Will you 6 agree that this is your firm's AO 12 report in this 7 case?</p> <p>8 THE WITNESS: I --</p> <p>9 MR. McCOY: I'm not there --</p> <p>10 THE WITNESS: I don't know.</p> <p>11 MR. McCOY: -- to see it. I mean, 12 I'm not questioning --</p> <p>13 THE WITNESS: I --</p> <p>14 MR. McCOY: -- that --</p> <p>15 THE WITNESS: I see --</p> <p>16 MR. LEE: Okay.</p> <p>17 THE WITNESS: -- Mike Cascino's 18 signature on it, but I don't know what it is.</p> <p>19 MR. LEE: All right. Mr. Suoja, I 20 was trying to see if we could get a stipulation 21 between me and Mr. McCoy.</p> <p>22 THE WITNESS: Oh.</p> <p>23 MR. LEE: I don't think --</p> <p>24 THE WITNESS: I'm sorry.</p> <p>25 MR. LEE: -- we're going to get</p>	<p>1 Q So these settlements occurred during the time that 2 you were special administrator of the estate?</p> <p>3 A Some of them did.</p> <p>4 Q You gave -- were you asked for authority to make each 5 of these settlements?</p> <p>6 A I was asked if these were adequate settlements.</p> <p>7 Q You were asked for specific authority to settle each 8 one of these?</p> <p>9 A I -- I was contacted about them. Jill Rakauski was 10 careful to talk to me.</p> <p>11 Q So Jill Rakauski, though, was not at Cascino Vaughan 12 Law Office for all these settlements?</p> <p>13 A No, I don't believe so.</p> <p>14 Q Okay. So who other than Jill Rakauski contacted you?</p> <p>15 A I -- I would be contacted by some of the clerks. And 16 then, frankly, that was one of my frustrations with 17 Cascino Vaughan, is I would usually end up getting a 18 clerk or someone and say, you know, Send me something 19 to sign or sign off on. And I would try to get ahold 20 of an attorney, and I had some frustration not being 21 able to do that. And the clerks were always 22 different. So there was no continuity. So I was 23 pretty ticked sometimes.</p> <p>24 Q Try and understand, has this litigation proceeded 25 without regular consultation with you, sir?</p>
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<p>1 there.</p> <p>2 MR. McCOY: I'm not able to 3 stipulate, because I'm not there to see it, nor do I 4 know that it's all of it, nor was I a part of that, 5 that filing, myself. So all I can tell you is that I'm 6 not questioning --</p> <p>7 MR. LEE: Okay.</p> <p>8 MR. McCOY: -- that Mike Cascino 9 signed right now. Go ahead.</p> <p>10 Q (By Mr. Lee) Can you look at Exhibit 4A, sir?</p> <p>11 A I am looking at it.</p> <p>12 Q Does this have your father's name at the top of it?</p> <p>13 A It does.</p> <p>14 Q Does it say it's a Settlement Report as of 2/3/2010?</p> <p>15 A It does.</p> <p>16 Q And is the date on Exhibit 4A February 25th, 2010?</p> <p>17 A It is.</p> <p>18 Q As you look down through this settlement report, does 19 it include settlements all the way from the year 1999 20 through the year 2007?</p> <p>21 A I see them. Yeah, 2000, 2001, 2007, '97. So, yes, 22 I -- I would agree with what you say.</p> <p>23 Q And there's even one on here from, the date was 2/25 24 of 2009, right? National Gypsum Corporation?</p> <p>25 A Yes. 2/25/2009.</p>	<p>1 A I guess --</p> <p>2 MR. McCOY: Let me object.</p> <p>3 THE WITNESS: I guess I --</p> <p>4 MR. McCOY: Which litigation are we 5 talking --</p> <p>6 THE WITNESS: Yeah.</p> <p>7 MR. McCOY: -- about now?</p> <p>8 THE WITNESS: And -- and what --</p> <p>9 yeah.</p> <p>10 MR. McCOY: What is it?</p> <p>11 THE WITNESS: And what -- what 12 specific --</p> <p>13 MR. McCOY: Are you talking about 14 settlements with bankrupt entities? Are you talking 15 about a lawsuit that -- the first one that he didn't 16 know anything about? Are you talking about the one 17 against Owens-Illinois? I just don't know, Josh. 18 Answer.</p> <p>19 Q (By Mr. Lee) Whatever litigation has been proceeding 20 on behalf of your father's estate while you've been 21 special --</p> <p>22 MR. McCOY: Well, I think that's 23 compound question. Subject to that, because there's 24 different forums in which to proceed, I mean, each of 25 these bankruptcy trusts or -- subject to that, he</p>

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<p>1 can answer however the best that he can.</p> <p>2 MR. LEE: I don't think I'd</p> <p>3 actually finished a question, sir. Is it okay if I</p> <p>4 finish a question?</p> <p>5 Q (By Mr. Lee) Whatever litigation has proceeded on</p> <p>6 behalf your father's estate while you've been special</p> <p>7 administrator, has it proceeded without regular</p> <p>8 consultation between can the Cascino Vaughan law</p> <p>9 firm?</p> <p>10 A No.</p> <p>11 Q Okay. Why, then, were you frustrated?</p> <p>12 A Because the consultation and the contact that I had</p> <p>13 wasn't adequate. I wanted other answers.</p> <p>14 Q Okay.</p> <p>15 A And so that's why I was calling them. So was it</p> <p>16 proceeding without regular consultation? No. It</p> <p>17 was -- there was feedback. It wasn't adequate, in my</p> <p>18 opinion. And I -- when I found out Jill Rakauski was</p> <p>19 gone, that was frustrating because I could reach her,</p> <p>20 and then when I got ahold of Bob.</p> <p>21 And, of course, part of it was, and my ability to</p> <p>22 locate the case on the Internet, was based on</p> <p>23 feedback that I got from some of the clerks there.</p> <p>24 But on -- on more than one occasion, you know, people</p> <p>25 indicated to me that we have the settlement coming,</p>	<p>1 copies of that correspondence?</p> <p>2 A I -- I would assume that they -- that they would.</p> <p>3 Q And that correspondence would relate to how, over the</p> <p>4 course of time, authority has or has not been granted</p> <p>5 with regard to settlements on behalf of your father's</p> <p>6 estate?</p> <p>7 A Don't know.</p> <p>8 Q Okay. Okay. You do, however, believe that there has</p> <p>9 been correspondence between you and your attorneys</p> <p>10 about authority to settle on behalf of --</p> <p>11 A Well, when --</p> <p>12 Q -- your father's estate?</p> <p>13 A I don't know what you mean by "authority." By -- do</p> <p>14 I consent to this? They've sent me items, you know,</p> <p>15 do I consent to this, and if so, send it back. And</p> <p>16 that has occurred.</p> <p>17 Q So in that context, authority for a particular</p> <p>18 settlement, there should be correspondence going back</p> <p>19 between you and your attorneys?</p> <p>20 A That would be correct.</p> <p>21 Q Okay.</p> <p>22 A And I would sign off on each settlement. It required</p> <p>23 my signature.</p> <p>24 Q Okay. And that would be true for each of the</p> <p>25 settlements that's identified here post 2003 when you</p>
<p style="text-align: center;">Page 135</p> <p>1 this is what we're looking at.</p> <p>2 Q Did you -- were the communications about the prior</p> <p>3 settlements verbal or were they done via e-mail or</p> <p>4 letter?</p> <p>5 A Sometimes they were done by telephone. And that was</p> <p>6 the result of my calling in and asking questions and</p> <p>7 trying to find people, find out what was going on.</p> <p>8 And I would hear from them, you know, what the</p> <p>9 settlement was. And then away we'd go, and I'd get a</p> <p>10 letter to sign off.</p> <p>11 Q Okay. Have you kept the correspondence between</p> <p>12 yourself and the Cascino Vaughan Law Offices?</p> <p>13 A Not on a real regular basis, no.</p> <p>14 Q Do you still have some of it?</p> <p>15 A I might -- I might have some of it.</p> <p>16 Q Do you still have correspondence that relates to</p> <p>17 settlements on behalf of your father's estate?</p> <p>18 A I don't believe so.</p> <p>19 Q Okay. What would have happened to that</p> <p>20 correspondence?</p> <p>21 A Well, my offices got moved several times during the</p> <p>22 course of this. It's a -- I have a usual habit of</p> <p>23 dumping files after so long, and out they go once</p> <p>24 they're outdated, so...(Pause.)</p> <p>25 Q Would you expect that your attorneys would have</p>	<p style="text-align: center;">Page 137</p> <p>1 were appointed special administrator?</p> <p>2 A I -- you're asking me -- you know, I'm -- I'm over 70</p> <p>3 years old, and you're asking me to go back and</p> <p>4 remember each of these things. This wasn't the</p> <p>5 highlight of my life.</p> <p>6 Q Okay.</p> <p>7 A And it -- it wasn't something that I was, you know,</p> <p>8 waiting with bated breath on.</p> <p>9 You know, to clarify some of this, you know, as I</p> <p>10 think about this, I do recall discussing some of</p> <p>11 these settlement offers with Jill Rakauski, and --</p> <p>12 and perhaps some of them with my mother when she was</p> <p>13 there. I do -- I do recall talking to Jill, and we</p> <p>14 talked certainly on more than one occasion about</p> <p>15 accepting these settlements.</p> <p>16 Q Okay.</p> <p>17 A So it was -- you know, it was her recommendation and</p> <p>18 a discussion. And I can -- I can definitely remember</p> <p>19 that. And, of course, I remembered the</p> <p>20 Owens-Illinois discussion with -- with Bob. But as I</p> <p>21 think about it, we did have discussions on the</p> <p>22 settlement.</p> <p>23 Q Okay. I want to ask you a little bit about an</p> <p>24 affidavit that you signed in this case. We'll go</p> <p>25 ahead and mark this as, I think we're on Exhibit 5.</p>

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<p>1 (Exhibit No. 5 marked for 2 identification.)</p> <p>3 Q (By Mr. Lee) And I'll go ahead and hand you Exhibit 4 5, sir.</p> <p>5 A Okay.</p> <p>6 Q Do you now have in front of you what we've marked 7 "Exhibit 5" for your deposition today?</p> <p>8 A That's correct. I do.</p> <p>9 Q Is this a Declaration of Gary Suoja?</p> <p>10 A It is.</p> <p>11 Q And you understand that a declaration used for these 12 purposes is akin to an affidavit, correct?</p> <p>13 A That's correct. Line 9 covers it. And in 14 Washington, declaration under penalty of perjury is 15 the equivalent of an affidavit or a sworn testimony.</p> <p>16 Q And so when you signed this affidavit, you were 17 signing it with the intention of following the type 18 of oath that you took at the beginning?</p> <p>19 A Absolutely.</p> <p>20 Q And you understood that this could be used just as 21 testimony before a court or a jury, correct?</p> <p>22 A That's correct.</p> <p>23 Q Is there anything in this affidavit that's incorrect?</p> <p>24 A I -- I don't know. I haven't read it. I've just 25 looked at it.</p>	<p>1 MR. McCOY: Maybe when I read it, 2 Gary, you didn't hear the date correctly, but it says 3 March 3, 2009.</p> <p>4 THE WITNESS: All right. That was --</p> <p>5 MR. LEE: Bob.</p> <p>6 THE WITNESS: I misunderstood then. 7 It was 2009. I'm sorry.</p> <p>8 MR. LEE: That's fine. Bob, please 9 let me finish my question and get an answer before 10 you insert your own testimony.</p> <p>11 MR. McCOY: Are you saying Judge 12 Robreno got it wrong?</p> <p>13 MR. LEE: No, Bob. I'm saying that 14 I asked a question of the witness and I wasn't asking 15 for your testimony, and I'd appreciate it if you'd 16 allow me to get an answer from the witness before you 17 insert your testimony, which is not actually an 18 objection. And if you had something to clear up, you 19 can do that through your own questions after I'm 20 done, please.</p> <p>21 THE WITNESS: Well, then, if I can 22 finish my answer.</p> <p>23 MR. LEE: I'm very happy to have 24 you finish your --</p> <p>25 THE WITNESS: Yeah.</p>
<p style="text-align: center;">Page 139</p> <p>1 Q I'm going to give you a second to take a look through 2 it.</p> <p>3 A Okay. Probably the date of my appointment as special 4 administrator is different. I thought it was later. 5 Other than that, I'd say it's correct.</p> <p>6 Q Okay. Why would you say that Paragraph 4 is 7 incorrect?</p> <p>8 A Because when we earlier heard Bob talk about the 9 order from the court in the Eastern District of 10 Pennsylvania, I believe that was in 2003, which 11 surprises me because of that early, is my mother was 12 still around, but she -- she was having some 13 problems. So it's possible we decided that it would 14 be better if I just stepped in at that point.</p> <p>15 Q Is it your testimony that your mother was still alive 16 in 2009?</p> <p>17 MR. McCOY: Let me --</p> <p>18 THE WITNESS: No.</p> <p>19 MR. McCOY: -- stop you guys --</p> <p>20 MR. LEE: Bob, Bob, there's a 21 pending question.</p> <p>22 MR. McCOY: The order was entered 23 in 2009.</p> <p>24 THE WITNESS: 2009? Okay. I'm 25 sorry. That was my mistake then.</p>	<p style="text-align: center;">Page 141</p> <p>1 MR. LEE: -- answer, sir.</p> <p>2 THE WITNESS: Based on what Mr. McCoy 3 had said earlier, I heard 2003, which kind of 4 surprised me. But I thought he read off 2003. 5 Apparently the order was 2009. So that would be more 6 consistent.</p> <p>7 Q (By Mr. Lee) Okay. Your mother passed away in 2003, 8 didn't she?</p> <p>9 A No. I believe it was later than that.</p> <p>10 Q Do you know what year your mother passed away in?</p> <p>11 A No, I don't. I'm a little embarrassed to say that. 12 But my -- my recollection was, it was -- it was about 13 2006.</p> <p>14 Q Okay.</p> <p>15 A And I can -- and the reason I say that is, she was 84 16 when she passed away. She was born in December of 17 '20 -- 1921. So I believe that she passed away in 18 2005 or early 2006.</p> <p>19 Q So in this affidavit, where it says, "After the death 20 of my mother, in 2009," that would be not correct?</p> <p>21 A Well, in 2009, I was appointed special administrator.</p> <p>22 Q Okay.</p> <p>23 A So it's --</p> <p>24 Q You weren't trying to tell --</p> <p>25 A It depends.</p>

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<p>1 Q -- us that your mother passed away in 2009?</p> <p>2 A No.</p> <p>3 Q All right. And, in fact, your mother did pass away</p> <p>4 in 2003, didn't she?</p> <p>5 A I don't -- I thought it was 2006. But I could be</p> <p>6 wrong.</p> <p>7 Q Okay. So the estate went for six years without a</p> <p>8 special administrator?</p> <p>9 A It's possible.</p> <p>10 Q Okay. Do you know if anybody was a special</p> <p>11 administrator between the time that your mother was</p> <p>12 the special administrator and there was a petition in</p> <p>13 the Eastern District of Pennsylvania to see if a</p> <p>14 federal court could appoint you as a --</p> <p>15 A I'm --</p> <p>16 Q -- special administrator?</p> <p>17 A I'm pretty -- I'm pretty certain that I was acting on</p> <p>18 behalf of my dad's estate after my mother passed</p> <p>19 away, because there was nobody -- nobody else to do</p> <p>20 that. And my siblings were more than happy. And if</p> <p>21 they didn't say it directly, they were -- by default,</p> <p>22 they were more than happy to have me handle it,</p> <p>23 because nobody else wanted to screw around with it.</p> <p>24 Q In order to have the authority to handle the estate,</p> <p>25 though, some court has to represent -- recognize you</p>	<p>1 \$150,000.</p> <p>2 Q He didn't communicate the fact that there'd been</p> <p>3 several demands made in this case prior?</p> <p>4 A No, I did not hear about that. I heard that -- that</p> <p>5 this was the response from Owens-Illinois, at</p> <p>6 150,000.</p> <p>7 Q And that's the question. That's a response to a --</p> <p>8 A Yeah.</p> <p>9 Q -- demand, right?</p> <p>10 A Well, I -- I didn't know if it was a response to a</p> <p>11 demand. It's just that they had offered to settle it</p> <p>12 for 150,000.</p> <p>13 Q Okay.</p> <p>14 A So I didn't -- I didn't get any kind of that detail.</p> <p>15 I don't recall any of that detail being offered.</p> <p>16 Q So in late December 2014, you were informed that</p> <p>17 there was a proposal that the case be resolved for</p> <p>18 \$150,000; is that correct?</p> <p>19 A That's correct.</p> <p>20 Q Okay. And were you informed who was making</p> <p>21 negotiations on behalf of the estate?</p> <p>22 A No. I think I just heard that that was the offer. I</p> <p>23 might have heard that it came to Mike Cascino.</p> <p>24 Q Okay.</p> <p>25 A But I -- I don't specifically recall that. It might</p>
<p style="text-align: center;">Page 143</p> <p>1 as a special administrator; is that correct?</p> <p>2 A Well, they did here. I don't know about the others.</p> <p>3 I think the others were mostly settlements. And I</p> <p>4 acted on behalf of the estate. And I'm not certain</p> <p>5 how the attorneys set it up, but I was the one that</p> <p>6 signed off on everything.</p> <p>7 Q Okay. So if we look at Paragraph 4, you weren't</p> <p>8 trying to tell us that your mother died in 2009; is</p> <p>9 that correct?</p> <p>10 A That's correct.</p> <p>11 Q Okay. That's fair. So if we look at your affidavit,</p> <p>12 you receive notification that there were settlement</p> <p>13 negotiations going on between you and Owens-Illinois</p> <p>14 when?</p> <p>15 A Well, I received notification that Owens-Illinois had</p> <p>16 made an offer to settle for \$150,000.</p> <p>17 Q Have you ever been involved in a settlement?</p> <p>18 A Yes.</p> <p>19 Q Generally, is it the person who is seeking damages,</p> <p>20 they make a demand and then the defendant makes an</p> <p>21 offer back in response to a demand?</p> <p>22 A It depends on the situation. As -- my recollection</p> <p>23 is from -- from Bob that, you know, it was coming to</p> <p>24 the end of the year. There was some money available.</p> <p>25 They were willing to see the case settled for</p>	<p style="text-align: center;">Page 145</p> <p>1 have been said.</p> <p>2 Q And tell me, was this initial communication via e-mail</p> <p>3 or a telephone conversation?</p> <p>4 A It was a telephone conversation.</p> <p>5 Q Was there any e-mail that went back and forth between</p> <p>6 you and anyone at Cascino Vaughan Law offices</p> <p>7 regarding this settlement proposal?</p> <p>8 A Not at that time. Not at the -- the initial time.</p> <p>9 It was a -- it was a phone call.</p> <p>10 Q Okay. Over the course of the next three days, were</p> <p>11 there any e-mail communications that went back and</p> <p>12 forth between you and the Cascino Vaughan Law</p> <p>13 Offices?</p> <p>14 A I sent an e-mail back to Bob McCoy, turning down the</p> <p>15 offer.</p> <p>16 Q Were there any other communications between you and</p> <p>17 the Cascino Vaughan Law Offices that were via e-mail?</p> <p>18 A At that time, no. I believe that was it.</p> <p>19 Q Okay. Have there been any e-mail communications</p> <p>20 between you and the Cascino Vaughan Law Offices since</p> <p>21 the December 16th/17/18 time frame regarding the</p> <p>22 settlement with Owens-Illinois?</p> <p>23 A I'm sorry. I don't --</p> <p>24 Q Yeah, that's a bad question.</p> <p>25 A Yeah.</p>

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<p>1 Q Since December 18th, have you had any e-mail communication 2 with the Cascino Vaughan Law Offices regarding the 3 settlement with Owens-Illinois?</p> <p>4 A Yes.</p> <p>5 MR. LEE: Okay. Bob, have those 6 been produced?</p> <p>7 MR. McCLOY: I didn't -- I don't 8 know that I'm aware of any that have been. I mean, 9 I'd have to -- if you want Gary and I to talk on 10 this, I'm just -- I don't think I'm aware of any. I 11 can talk to him right now and find out what he's 12 talking about, but I'm not certain I know of any --</p> <p>13 MR. LEE: Let me inquire a little 14 bit more.</p> <p>15 Q (By Mr. Lee) Who at the Cascino Vaughan Law Offices 16 have you communicated via e-mail about the 17 settlement?</p> <p>18 A Only Bob McCoy.</p> <p>19 Q So there are -- in addition to the one e-mail on 20 December 18th, there are additional e-mails between 21 you and Bob McCoy related to the settlement; is that 22 correct?</p> <p>23 A Well, they -- what they were related to was that, in 24 January, is the question about whether Cascino 25 Vaughan had properly accepted an offer or not. And</p>	<p>1 And those are not -- those will not be produced. 2 MR. LEE: Okay. So the answer to 3 my question is they have not been produced? 4 MR. McCLOY: Right. 5 MR. LEE: Okay. Because you're 6 asserting a privilege with regard to those 7 communications; is that correct? 8 THE WITNESS: I am. 9 MR. McCLOY: Yes, those are 10 attorney/client privileged, and they're not part of 11 the issue of the existence of a valid agreement. 12 MR. LEE: Okay. 13 MR. McCLOY: They're relating to the 14 motions made for enforcement purposes. 15 MR. LEE: Okay. 16 MR. McCLOY: And advising him of 17 what's going on in the case that's followed the 18 rejection of the offer that was -- that had already 19 been communicated long before that. 20 MR. LEE: Okay. 21 Q (By Mr. Lee) So, Mr. Suoja, I'm going to ask you a 22 few more questions about this. The communications 23 between you and the Cascino Vaughan Law Office after 24 December 18th, 2014, that relate to the settlement 25 agreement between Owens-Illinois and the estate of</p>
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<p>1 that's what had came to light.</p> <p>2 MR. LEE: Okay. Have those 3 communications been produced, Bob?</p> <p>4 MR. McCLOY: That's a different set 5 of communications. I mean, I didn't know that's 6 what he was addressing. Those are -- those 7 communications are not about anything other than the 8 motions that were subsequently filed. So those 9 were about motions, not about the actual existence 10 of the agreement, itself.</p> <p>11 So that's a different subject matter, and I 12 would say those are certainly attorney/client 13 privilege. So that's what I understand now it was 14 talking about.</p> <p>15 MR. LEE: Okay.</p> <p>16 MR. McCLOY: Those would be objected 17 to as privileged.</p> <p>18 MR. LEE: Thank you for that.</p> <p>19 MR. McCLOY: They all come long after 20 the rejection of the offer. I mean, there was the 21 rejection that you know that Mike Cascino sent on to 22 Ed Casmere right away after that December 18 e-mail, 23 like, the next day. So these e-mails that Gary's 24 talking about are all relating to the subsequent 25 motions on attempts to get the agreement enforced.</p>	<p>1 Oswald Suoja, do any of those communications discuss 2 whether there was or was not a valid settlement 3 agreement between the estate and Owens-Illinois? 4 MR. McCLOY: Let me object again to 5 that question on attorney/client grounds. I think, 6 though, Gary can answer the -- to the narrow issue 7 of whether there originally had been some enforceable 8 agreement and not as to the strategy of defending 9 the motion to enforce, itself. 10 MR. LEE: I didn't ask about the 11 strategy with regard to the motion. I asked whether 12 those communications discussed whether or not there 13 had been a valid and enforceable agreement. 14 THE WITNESS: They -- they 15 discussed generally, and sometimes pointedly, the 16 question of whether there had been a prior agreement. 17 MR. LEE: Okay. 18 THE WITNESS: And -- and the 19 question of that Cascino had apparently, or somebody 20 at the firm -- I think it was Mike Cascino -- had 21 accepted the offer, and a little bit of consternation 22 on my part, and as you can imagine, on Mike's part, 23 because I had clearly rejected that offer. 24 Q (By Mr. Lee) Okay. So there are discussions in 25 there about Mike Cascino's conduct on behalf of the</p>

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<p>1 estate?</p> <p>2 A That -- well, I -- I don't know if it's on behalf of</p> <p>3 the estate, because I question whether he had that</p> <p>4 authority, and clearly he did not. So the question</p> <p>5 in -- in my mind is, if we didn't authorize it, where</p> <p>6 are we? What's going on? You know, and then we</p> <p>7 started -- we started talking about what to do about</p> <p>8 it.</p> <p>9 Q Okay. In those communications, there is discussion</p> <p>10 of the factual background leading up to the</p> <p>11 settlement; is that correct?</p> <p>12 A Not so much. It was -- it was a discussion by Bob</p> <p>13 McCoy telling me what apparently happened.</p> <p>14 Q Okay. And so --</p> <p>15 MR. McCOY: Let me just again</p> <p>16 interpose an attorney/client objection on this. I</p> <p>17 don't think this is part of the question of whether</p> <p>18 there was a valid and enforceable settlement</p> <p>19 agreement that was authorized by -- properly</p> <p>20 authorized for Cascino Vaughan to act on.</p> <p>21 This is not part of that. This is not the</p> <p>22 questions and strategy relating to the defense of the</p> <p>23 motion and to the question of what -- it's unrelated</p> <p>24 to the question of what was authorized by the -- by</p> <p>25 Gary or anybody with proper authority to so authorize.</p>	<p>1 e-mails, the post December 18th --</p> <p>2 MR. McCOY: Right.</p> <p>3 Q (Continuing by Mr. Lee) -- 2000 --</p> <p>4 MR. LEE: Bob, I'm asking Mr. Suoja.</p> <p>5 Q (By Mr. Lee) If I ask you any more questions about</p> <p>6 these e-mails that occurred post December 18th, 2014,</p> <p>7 you're going to refuse to answer any questions on</p> <p>8 that base of privilege; is that correct?</p> <p>9 A That's correct.</p> <p>10 MR. McCOY: That's what I've</p> <p>11 directed him to do.</p> <p>12 THE WITNESS: Yes.</p> <p>13 MR. McCOY: He can choose to waive</p> <p>14 otherwise, but I directed.</p> <p>15 THE WITNESS: And I'm going to</p> <p>16 follow my attorney's advice.</p> <p>17 MR. LEE: As you should, sir.</p> <p>18 I think, Bob, those communications are going</p> <p>19 to be at issue. But we can talk about that after</p> <p>20 the deposition.</p> <p>21 MR. McCOY: Fine.</p> <p>22 Q (By Mr. Lee) You are aware that Owens-Illinois --</p> <p>23 well, that Mike Cascino entered into a settlement</p> <p>24 agreement purportedly on behalf of the estate of</p> <p>25 Oswald Suoja with Owens-Illinois; is that right?</p>
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<p>1 MR. LEE: Okay.</p> <p>2 MR. McCOY: Subject to that, I</p> <p>3 mean, I guess Gary can waive the privilege, but I</p> <p>4 would direct him not to answer questions on these</p> <p>5 follow-up e-mails further, unless he wants to waive</p> <p>6 that privilege.</p> <p>7 THE WITNESS: And I do not.</p> <p>8 MR. McCOY: Go ahead.</p> <p>9 Q (By Mr. Lee) Okay. So you're going to follow your</p> <p>10 attorney's instruction not to answer?</p> <p>11 A That's correct.</p> <p>12 Q Okay.</p> <p>13 MR. McCOY: Josh, let me say this.</p> <p>14 I mean, if you want me to submit anything further</p> <p>15 for in camera review, but I can. But these are</p> <p>16 different. That's my judgment as his lawyer, so...</p> <p>17 (Pause.)</p> <p>18 MR. LEE: Sure.</p> <p>19 MR. McCOY: We can move on from</p> <p>20 there. Go ahead.</p> <p>21 MR. LEE: And, Bob, you know me.</p> <p>22 Once you assert the privilege and the client accepts</p> <p>23 it, I don't press on that.</p> <p>24 Q (By Mr. Lee) I just want to make sure that if I ask</p> <p>25 you any additional questions about these subsequent</p>	<p>1 A That's what I understand.</p> <p>2 Q Okay. You understand that Mr. Cascino actually sent</p> <p>3 an e-mail to the attorneys for Owens-Illinois,</p> <p>4 stating that he accepted the settlement offer, right?</p> <p>5 A I did not know that.</p> <p>6 Q Okay.</p> <p>7 A I didn't know any specifics.</p> <p>8 Q Okay. And you still have Exhibit 5 in front of you,</p> <p>9 correct, which is your declaration?</p> <p>10 A That's correct.</p> <p>11 Q What was your understanding of why you were signing</p> <p>12 this declaration?</p> <p>13 A I believe this related to a motion or some other</p> <p>14 issues related to that settlement.</p> <p>15 Q Okay.</p> <p>16 A Or purported settlement is more likely the proper</p> <p>17 term.</p> <p>18 Q Okay. Now, you understood that Owens-Illinois had</p> <p>19 filed a motion to enforce the settlement that was</p> <p>20 entered into; is that right?</p> <p>21 A Yes, I believe that's correct.</p> <p>22 Q And you understood that the estate, through you, was</p> <p>23 opposing that motion; is that right?</p> <p>24 A That is correct.</p> <p>25 Q And when you signed this affidavit, this declaration,</p>

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<p>1 you -- that we have as Exhibit 5A -- or, sorry, 2 Exhibit 5, you understood that that declaration was 3 going to be used in support of the motion -- or the 4 opposition to our motion to enforce the settlement; 5 is that correct?</p> <p>6 A That's correct.</p> <p>7 Q Okay. And one of the things that you were doing in 8 signing that declaration was creating an issue about 9 whether Michael Cascino had authority to settle the 10 case, correct?</p> <p>11 A I was not creating the issue.</p> <p>12 Q Well, unless you create an issue, there was a 13 settlement agreement made?</p> <p>14 A No. That's the -- whether or not there was an issue, 15 that was well ahead of that. I didn't create it.</p> <p>16 Q Okay. You were placing at issue whether Michael 17 Cascino had authority to settle the case on your 18 behalf; is that right?</p> <p>19 A I think the -- I think the question -- the question 20 was more whether or not he had any authority to begin 21 with.</p> <p>22 Q Okay. At issue is Mr. Cascino's conduct in 23 representing the estate; is that right?</p> <p>24 A Apparently.</p> <p>25 Q Okay. You would agree that his conduct is an issue</p>	<p>1 Q And, in fact, prior to December 18th, you had 2 informed the Cascino Vaughan Law Offices that they 3 did not have authority to resolve this case; is that 4 correct?</p> <p>5 A No, on December 18th I informed them that they did 6 not have the authority to accept this particular 7 offer.</p> <p>8 Q Well, let's take a look at your affidavit, which is 9 Exhibit 5.</p> <p>10 A Mm-hmm.</p> <p>11 Q And please take a look at Paragraph 6, sir.</p> <p>12 A Yeah.</p> <p>13 Q What did you say in Paragraph 6 in your affidavit?</p> <p>14 A I said that Robert McCoy called me. He advised me --</p> <p>15 Q What date?</p> <p>16 A This was December 16th.</p> <p>17 Q And, in fact, could you just read that word for word 18 for us, please?</p> <p>19 A Yeah. "On" -- "On or about December 16th, 2014, I 20 spoke on the phone with Attorney Robert McCoy at 21 CVLO. During that conversation, Mr. McCoy advised me 22 that Owens-Illinois had made a settlement offer. I 23 instructed Mr. McCoy not to settle the case as I 24 wanted to discuss the settlement with other 25 beneficiaries."</p>
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<p>1 in this case?</p> <p>2 A Whether or not there's -- there's another settlement 3 that we rejected, that's the issue in the case. I 4 don't -- I don't and haven't tried to pass any 5 judgment on Mr. Cascino's conduct.</p> <p>6 Q Okay.</p> <p>7 A If I knew him, I might. I don't -- I don't know him, 8 and that's the problem.</p> <p>9 Q Okay. Would you agree that it is not a -- it's not 10 proper conduct for an attorney to represent that they 11 have an -- have authority to resolve a case when they 12 do not?</p> <p>13 A From my -- from my personal opinion, that would be 14 correct.</p> <p>15 Q You're generally familiar with the rules that govern 16 attorney professional conduct, correct?</p> <p>17 A Generally, yes.</p> <p>18 Q And you understand that it's improper for an attorney 19 to make a representation with regard to a settlement 20 if they don't have authority to do so?</p> <p>21 A As a general rule, that is the case.</p> <p>22 Q Okay. You never expressed to the Cascino Vaughan Law 23 Offices that they had authority to settle this case, 24 correct?</p> <p>25 A That's correct.</p>	<p>1 Q Okay.</p> <p>2 A "On December 18th, I communicated to Mr. McCoy" --</p> <p>3 Q I'm sorry, sir. I asked you to read Paragraph 6.</p> <p>4 Paragraph 6 ended with the --</p> <p>5 A Oh.</p> <p>6 Q -- prior sentence, right?</p> <p>7 A Okay.</p> <p>8 Q Is that correct?</p> <p>9 A Yes. You are correct.</p> <p>10 Q All right. So the question I asked you before is, 11 prior to December 18th, you hadn't told the Cascino 12 Vaughan Law Offices that they did not have authority 13 to settle this case, correct?</p> <p>14 A Yeah, well, yes. And I should expand on that a 15 little bit so you get the full story. So when I 16 talked to Mr. McCoy, I said, No, I don't want to 17 accept it at this time. I need to talk to the 18 others, and I think I should. And I'll get back to 19 you soon. And that's -- that's basically what I told 20 him.</p> <p>21 Q Right. But in your affidavit, you stated that on 22 December 16th, you instructed Robert McCoy not to 23 settle the case, correct?</p> <p>24 A Read the rest of it. You don't get only part of the 25 sentence. You got to get the rest of it. And that's</p>

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<p>1 what I was trying to explain to you when I expanded 2 on my answer, so that you would be sure to get all of 3 it in and not just the part you like.</p> <p>4 Q No, I'm just asking: You instructed them not to 5 settle the case on December 16th, right?</p> <p>6 A And the reason why.</p> <p>7 Q And it's fine to have the reason why. I just want -- 8 you're not saying that you gave them partial 9 authority to settle the case, are you?</p> <p>10 A No, I told them to hold on a minute. I wanted to 11 talk to some of the other people.</p> <p>12 Q On December 16th, you told them they could not settle 13 the case?</p> <p>14 A I told them to hold on. I wanted to talk to others.</p> <p>15 Q You told them they could not settle the case as of 16 December 16; is that correct?</p> <p>17 A I did not -- I did not give them permission to settle 18 the case on the 16th.</p> <p>19 Q Right. And, in fact, what you say is, you instructed 20 him not to settle the case?</p> <p>21 A Because I wanted to talk to the other parties.</p> <p>22 Q Right. Do not settle the case, is what you told them 23 as of December 16th?</p> <p>24 A Well, that's correct.</p> <p>25 Q Okay.</p>	<p>1 A I may have. I don't know.</p> <p>2 MR. LEE: Okay. Let's go ahead and 3 mark this as Exhibit 6, please.</p> <p>4 (Exhibit No. 6 marked for 5 identification.)</p> <p>6 Q (By Mr. Lee) Would you agree with me that it would 7 be improper for a lawyer to enter into a settlement 8 after they had been instructed by their client not to 9 do so?</p> <p>10 A Yes.</p> <p>11 Q Okay. And would you agree that it would be improper 12 for a lawyer to enter into a settlement after another 13 lawyer in their firm said, "I talked to our client, 14 and they instructed me not to settle the case"?</p> <p>15 A Yes, that would --</p> <p>16 Q Okay.</p> <p>17 A -- be correct.</p> <p>18 Q And would you agree that it's improper for a lawyer 19 to settle a case without the client's knowledge or 20 consent?</p> <p>21 MR. McCOY: Let me object to, 22 again, this line of questioning is just outside 23 the scope of the discovery that's been offered on 24 question of enforcement of the settlement agreement.</p> <p>25 The judge has already ruled that the case cannot</p>
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<p>1 A Yeah. They had no authority to settle on -- from me 2 on December 16th.</p> <p>3 Q And that was clear?</p> <p>4 A Yes, that was pretty clear.</p> <p>5 Q It was express?</p> <p>6 A It was express.</p> <p>7 Q You actually used the words, "Do not settle the 8 case"?</p> <p>9 A I believe so.</p> <p>10 Q Okay. So there could have been no confusion between 11 you and Cascino Vaughan Law Offices as of December 12 16th?</p> <p>13 A There was no confusion between me and Bob McCoy.</p> <p>14 Q And Bob McCoy represents Cascino Vaughan Law Offices?</p> <p>15 A Bob McCoy is an attorney at Cascino Vaughan.</p> <p>16 Q Okay. So between you and Cascino Vaughan Law 17 Offices, there was no disagreement about whether they 18 had the authority to settle the case?</p> <p>19 A Between me and Bob McCoy, there was no --</p> <p>20 Q Okay.</p> <p>21 A -- disagreement.</p> <p>22 Q Have you seen Mr. McCoy's affidavit in opposition to 23 Owens-Illinois's --</p> <p>24 A I -- I may. I don't know.</p> <p>25 Q -- motion to enforce a settle?</p>	<p>1 be settled by the lawyer without authority. So, you 2 know, these questions have already been contemplated 3 as, in essence, the ruling that you can't -- lawyers 4 can't act without authority.</p> <p>5 So, I mean, I don't know where you're heading 6 with this, Josh, but the judge has already ruled 7 that. Go ahead. You can proceed.</p> <p>8 Q (By Mr. Lee) I'm going to re-ask my question, sir. 9 Would you agree that it's improper for a lawyer to 10 settle a case without his client's knowledge or 11 consent?</p> <p>12 A Well, generally, yes.</p> <p>13 Q Okay. I'm going to hand you what we've marked as 14 Exhibit 6 for your deposition today. Go ahead and 15 read through that, sir.</p> <p>16 A (Witness peruses exhibit.) Okay.</p> <p>17 Q Have you had a chance to read through what we've 18 marked as Exhibit 6 for your deposition today?</p> <p>19 A I have.</p> <p>20 Q And is that a document that is marked the 21 "Declaration of Robert McCoy"?</p> <p>22 A It is.</p> <p>23 Q And if you look to the second page of that 24 declaration, which we've marked as Exhibit 6, is it 25 dated February 2nd, 2015?</p>

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<p>1 A It is.</p> <p>2 Q Are you familiar with Mr. McCoy's signature?</p> <p>3 A Not really.</p> <p>4 Q I'm going to represent to you that this is a</p> <p>5 declaration that was filed by your attorney, Robert</p> <p>6 McCoy, in opposition to our motion to enforce the</p> <p>7 settlement in this case.</p> <p>8 A Okay.</p> <p>9 MR. MCCOY: I'd so stipulate.</p> <p>10 MR. LEE: Okay.</p> <p>11 Q (By Mr. Lee) And, in fact, it has some identifying</p> <p>12 information. It says in Paragraph 2 that Mr. McCoy</p> <p>13 is an attorney licensed in the states of Wisconsin</p> <p>14 and Illinois and that he works at the Cascino Vaughan</p> <p>15 Law Offices, which has offices in Milwaukee,</p> <p>16 Wisconsin, and Chicago, Illinois, correct?</p> <p>17 A I -- I don't -- that's what it says, yes.</p> <p>18 Q Yes.</p> <p>19 A I assume that they do.</p> <p>20 Q That would be consistent with what you know about the</p> <p>21 Cascino Vaughan Law Offices; is that correct?</p> <p>22 A It's what it says.</p> <p>23 Q Okay. Do you know where Cascino Vaughan has offices?</p> <p>24 A No. I know they're in Chicago.</p> <p>25 Q All right. It then says, "CVLO," which in the</p>	<p>1 A That's correct.</p> <p>2 Q And then it says, "During that conversation, Gary</p> <p>3 Suoja instructed me not to settle the case because he</p> <p>4 wanted to discuss the settlement offer with the</p> <p>5 beneficiaries of the estate."</p> <p>6 And you see that in that Paragraph No. 6, correct?</p> <p>7 A That is correct.</p> <p>8 Q And that's actually what happened, correct?</p> <p>9 A That is correct. I discussed it with one of the</p> <p>10 beneficiaries. And I contacted another one of the</p> <p>11 beneficiaries just to find out generally how things</p> <p>12 were going, so...(Pause.)</p> <p>13 Q And that's great. I want to stick with what we're</p> <p>14 talking about --</p> <p>15 A Yeah.</p> <p>16 Q -- here, is Mr. McCoy says in Paragraph 6 of his</p> <p>17 affidavit --</p> <p>18 A Mm-hmm.</p> <p>19 Q -- or declaration, that during your conversation with</p> <p>20 him on December 16th, you instructed CVLO not to</p> <p>21 settle the case, right?</p> <p>22 A That's -- that's correct. That's what it says.</p> <p>23 Q That's because you actually instructed them not to</p> <p>24 settle the case, right?</p> <p>25 A That's correct.</p>
<p style="text-align: center;">Page 163</p> <p>1 preceding paragraph has been stated to be "Cascino</p> <p>2 Vaughan Law Offices," correct?</p> <p>3 A That's correct. That's my understanding.</p> <p>4 Q Says, CVLO represents Gary Suoja as special</p> <p>5 administrator of the estate of his father, Oswald</p> <p>6 Suoja, in Suoja v. Owens-Illinois, Case No.</p> <p>7 99-cv-475-bbc, in the Western District of Wisconsin,</p> <p>8 correct?</p> <p>9 A And I believe that's correct.</p> <p>10 Q Okay. So Mr. McCoy then says, in Paragraph 5 of his</p> <p>11 declaration, that, "On December 16th, 2014, I was</p> <p>12 directed by Michael Cascino, an attorney at CVLO, to</p> <p>13 contact the client to obtain approval settlement</p> <p>14 offer by Owens-Illinois in the Suoja case"; is that</p> <p>15 correct?</p> <p>16 A I am assuming that it's correct. I wasn't involved</p> <p>17 in that end of it. So I don't know.</p> <p>18 Q And I'm just saying, that's what Mr. McCoy stated in</p> <p>19 his declaration; is that right?</p> <p>20 A Well, that's -- that's what's in the declaration.</p> <p>21 That's correct.</p> <p>22 Q Okay. And it says, Later that day, on December 16th,</p> <p>23 I spoke with Gary Suoja on the phone and advised him</p> <p>24 that Owens-Illinois had made a settlement offer.</p> <p>25 And you recall that happening, right?</p>	<p style="text-align: center;">Page 165</p> <p>1 Q Okay. In Paragraph 7, then, what does Mr. McCoy say?</p> <p>2 A "After my conversation with Gary Suoja, I</p> <p>3 communicated with Michael Cascino that Gary Suoja had</p> <p>4 directed not to settle the case."</p> <p>5 Q Okay. And you didn't have any communications with</p> <p>6 Mr. McCoy between the 16th and the 18th of December,</p> <p>7 did you?</p> <p>8 A No, I did not.</p> <p>9 Q All right. And so if we go, then, to Paragraph</p> <p>10 No. 10 of Mr. McCoy's statement, his declaration</p> <p>11 here, which is Exhibit 6, what does he say in</p> <p>12 Paragraph 10 of his declaration?</p> <p>13 A "Michael Cascino was never given authority to settle</p> <p>14 the case for the amount offered by OI and which</p> <p>15 Michael Cascino agreed to."</p> <p>16 Q So would you agree that there's no dispute that</p> <p>17 Michael Cascino agreed to accept the offer that</p> <p>18 Owens-Illinois made to resolve this case?</p> <p>19 A That's my understanding, that he did accept or</p> <p>20 purport to accept the offer of Owens-Illinois.</p> <p>21 Q And do you agree with Mr. McCoy that Mr. Cascino was</p> <p>22 never given authority to settle the case?</p> <p>23 A And I certainly would agree with that.</p> <p>24 Q Okay. And in Paragraph 11, what does Mr. McCoy say</p> <p>25 about Mr. Cascino's actions?</p>

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<p>1 A Mr. Cascino -- well, in Paragraph 11, "Michael 2 Cascino settled the Suoja case without Gary Suoja's 3 knowledge or consent." 4 Q And that's your understanding what happened, right? 5 A That would -- yes, that's -- that's what I know about 6 it. 7 Q Okay. 8 A What is here. Because I have no direct information 9 other than that. 10 Q Okay. So you agree that Mr. Cascino settled this 11 case without -- 12 A No. I said -- 13 Q -- the client's knowledge and consent? 14 A -- this is what I know about it, is what's written 15 here. 16 Q Okay. 17 A So I don't -- do I agree with it? I have no 18 knowledge of it. 19 Q Okay. 20 A Other than what's in here. 21 Q Would you agree that if Mr. Casci -- if Mr. McCoy is 22 right that Mr. Cascino settled your case without your 23 knowledge or consent, that would have been improper? 24 A That's -- that is what I have heard, is that he did 25 settle it --</p>	<p>1 A And if Mr. McCoy can point us to an e-mail where 2 he alerted us to your sister's issue prior to us 3 sending the subpoena, I would apologize for that, 4 sir. 5 A That will be interesting. 6 Q Well, if you're aware of communication, sir. I'm not. 7 A Yeah. 8 Q And I will tell you, that as soon as Mr. McCoy gave 9 us that communication, I told him that we would be 10 happy to put that off if he would provide us some 11 information that would allow us to determine that she 12 could not sit. And he never did. And he refused to. 13 A And he stated there were HIPAA requirements that 14 wouldn't allow him to disclose the reason. And I 15 said if we can go through with these depositions, 16 we'll be more than happy if we can get some 17 information to withdraw that subpoena. 18 A All right. Are you going to withdraw the subpoena 19 now? I presume you have? 20 Q Well, I can't do anything while I'm here, sir. 21 A Okay. So when are you going to do it? 22 Q Well, I am going to go back, I'm going to look at 23 what's been said, and I suspect that we will. 24 A Okay. I will expect to hear from you that you've 25 done it.</p>
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<p>1 Q Okay. 2 A -- or make -- accepted the offer. And, yes, in my 3 opinion, that was improper, because he did not have 4 authority. 5 Q Okay. Now, I just want to make sure we're clear for 6 the record. Do you believe that Mr. McCoy is stating 7 an untruth here in Paragraph 11 of his declaration? 8 A I -- I presume that he is not. I presume that he's a 9 very truthful person. 10 Q Okay. And if Mr. McCoy is stating this, Mr. Cascino 11 settled this case without your knowledge or consent, 12 correct? 13 A I -- that's what I presume based on what he has said. 14 Q And your belief is that would be an improper thing 15 for a lawyer to do? 16 A That it would. 17 Q And it's your belief that was an improper thing for 18 Mr. Cascino to do in this circumstance? 19 A If, in fact, he did that, then -- then it would have 20 been improper. Sort of like sending subpoenas out. 21 Q Well, it's proper to send subpoenas for people who 22 may have knowledge in a case, correct, sir? 23 A We're going to have to have a lot of discussions and 24 make some motions on that as well. 25 Q We'll be happy to respond to that, sir.</p>	<p>1 Q Well, we'll take a look at it, sir. 2 Now, part of the problem is, like I said, we try 3 to get that resolved, and if -- I'm sure you'll see 4 the transcript from your sister's deposition as well, 5 where I tried to ask her to find out and Mr. McCoy 6 said it was privileged by HIPAA and she couldn't give 7 me any information. 8 A Well, I'm -- I'm not -- I'm not reticent about giving 9 you the information. Don't contact her. I mean, 10 you've already killed one of my family members. 11 Don't try and make it two. 12 Q Sir. 13 A And I'm not joking. I am very serious about this. 14 Q If you are telling me -- 15 A This is very offensive, and it is life-threatening to 16 her. 17 Q And if you're telling me, sir, that that is as 18 serious as her condition is -- 19 A It is. 20 Q -- then I will take that to heart and I fully suspect 21 we're going to withdraw that subpoena. 22 A I would hope so. 23 Q And if that had been explained -- 24 A And I suspect you will. 25 Q -- to us before we sent the subpoena after she was</p>

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<p>1 identified as a witness who was contacted about the 2 settlement offer, we would not have sent the 3 subpoena.</p> <p>4 A Well --</p> <p>5 Q But that was not explained to us.</p> <p>6 A You now -- you now know.</p> <p>7 Q I do.</p> <p>8 A My expectations are she will not be here when this 9 trial occurs.</p> <p>10 Q And I am sorry for that, sir.</p> <p>11 A So am I.</p> <p>12 Q That is certainly something that we would not have 13 known. So...(Pause.)</p> <p>14 Are you aware that -- well, let me ask you this: 15 Are you aware that your sister Sue was also 16 identified as a person who would be a witness in this 17 case?</p> <p>18 A No, I was not.</p> <p>19 MR. McCLOY: Let me object again. 20 That's just simply not a correct statement of the 21 discovery procedures in this case. And I don't even 22 think there's been an identification of witnesses 23 required in any document. So the only thing that's 24 happened has been, as we know, she's listed as a 25 child and Gary said he talked to her.</p>	<p>1 Q And there have been discussions since about the 2 settlement, and those have been exchanged with her, 3 correct, sir?</p> <p>4 A No.</p> <p>5 MR. McCLOY: Objection. Objection 6 to that question again. That's attorney/client 7 privilege. He can make his waiver of that if he 8 wants to, but I would direct not to answer to the 9 communications that occurred after December 18th 10 that all relate to questions of defending the 11 motion and what -- how to proceed on that issue.</p> <p>12 MR. LEE: And I didn't ask about 13 questions about defending the motion. I asked 14 specifically about discussions pertaining to the 15 settlement.</p> <p>16 MR. McCLOY: I've already stated the 17 attorney/client objection. I'd direct him not to 18 answer, but he can waive it --</p> <p>19 MR. LEE: Okay.</p> <p>20 MR. McCLOY: -- on the post December 21 18th.</p> <p>22 MR. LEE: I'm not going to ask you 23 to waive in situations where your counsel has 24 directed you not to answer, sir. So if you want to 25 take your counsel's --</p>
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<p>1 There's nothing about Gary talking to her that 2 makes her a witness in this case. He can -- he's 3 already made clear that he's the only person who's 4 communicated with our firm about any of these 5 settlements as far as providing authority to our 6 firm, and there's nothing to indicate she has any 7 role in this.</p> <p>8 So to keep asserting this and taking up 9 everybody's time, again, you know, that's something 10 that should just hopefully stop here. Go ahead, and 11 let's proceed with the deposition.</p> <p>12 Q (By Mr. Lee) Whose e-mail address is 13 jmerwin815@comcast.net?</p> <p>14 A That is my sister's e-mail address.</p> <p>15 Q She was involved in the communications back and forth 16 with Mr. McCoy, wasn't she?</p> <p>17 A Later on.</p> <p>18 Q In fact --</p> <p>19 A She was --</p> <p>20 Q -- on December 18th, wasn't she?</p> <p>21 A I -- I probably sent her a copy of the e-mail because 22 I had talked to her.</p> <p>23 Q And so she does have some knowledge in addition to 24 just your conversation about --</p> <p>25 A She has -- she has a copy of my e-mail.</p>	<p>1 THE WITNESS: Then let's go.</p> <p>2 MR. LEE: -- advice, please do.</p> <p>3 THE WITNESS: I do.</p> <p>4 Q (By Mr. Lee) Okay. Do you believe, sir, that when 5 attorneys are in negotiations, they reasonably should 6 be able to rely on the representations made by 7 attorneys on the other side?</p> <p>8 A Well, I believe that would normally be the case.</p> <p>9 Q Okay. And when an attorney communicates that his 10 clients have agreed to accept an offer made by the 11 other side, the other side -- absent any other 12 indication -- should be allowed to rely on that, 13 correct?</p> <p>14 A Well, that depends on the situation. I mean, rely on 15 it for what purposes?</p> <p>16 Q That the lawyer has the authority and is allowed to 17 act on behalf of the client who retained him.</p> <p>18 A Well, in such a way that it binds the client?</p> <p>19 Q Yes, sir.</p> <p>20 A If the client didn't authorize it?</p> <p>21 Q Well, if it's never been communicated that the client 22 didn't authorize it, it's reasonable for the 23 attorneys on the other side to rely on what the 24 attorney states, right?</p> <p>25 A Well, if -- you know, we're going to argue legal</p>

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<p>1 issues here. But if -- if the client didn't 2 authorize it, the attorney makes a representation 3 either by mistake or because he's making an improper 4 recommendation, then something else, I don't believe 5 that that binds the client.</p> <p>6 Q I didn't ask about binding. I asked about reasonably 7 rely on.</p> <p>8 A Well, they can rely on. But, again, it's for what 9 purpose? You don't want to respond. I'm -- I'm 10 guessing, as I said, if the purpose is to try to bind 11 the client, then, no, it's not reasonable.</p> <p>12 Q Do you have any reason to believe that Owens-Illinois 13 had any information to suggest that Mike Cascino 14 didn't have authority to act on behalf of the estate 15 in entering into and concluding settlement 16 negotiations with Owens-Illinois?</p> <p>17 A I have no real faith in asbestos manufacturers at 18 all. We already know that they've lied about the 19 lethality of their product. So saying that they, you 20 know, were truthful or so on about anything is 21 suspect in my mind.</p> <p>22 Q That does not answer my question. I'm going to 23 ask that the --</p> <p>24 A That does answer it.</p> <p>25 Q It does not, sir.</p>	<p>1 related to my attorneys.</p> <p>2 Q Okay.</p> <p>3 A Indicating he did not have that authority.</p> <p>4 Q And you don't have any information that the attorneys 5 actually representing you actually relayed that 6 information to Owens-Illinois prior to December 18th?</p> <p>7 A I -- I wasn't part of those negotiations, so I don't 8 know.</p> <p>9 Q Okay.</p> <p>10 (Exhibit No. 7 marked for 11 identification.)</p> <p>12 Q (By Mr. Lee) I'm going to hand you two pages that 13 we've marked as Exhibit 7 for your deposition. Have 14 you had a chance to look at those two pages, sir?</p> <p>15 A Appear to be e-mails.</p> <p>16 Q E-mails between whom?</p> <p>17 A Sent from Michael Cascino on Thursday, December 18th, 18 at 2:57, to Casmere, Edward M., re "Viola & Suoja."</p> <p>19 Q Okay. And in those e-mails, does that appear to be a 20 conversation between Edward Casmere at Schiff Hardin 21 and Michael Cascino at Cascino Vaughan Law Offices?</p> <p>22 A I -- I can't tell what law firm. Maybe there at the 23 end, Edward Casmere, Schiff Hardin. They're e-mails 24 back and forth.</p> <p>25 Q What is the topic of discussion in those e-mails?</p>
Page 175	Page 177
<p>1 A I don't believe anything that Owens-Illinois says.</p> <p>2 Q Okay. Well, we'll go through the e-mails, but that's 3 fine.</p> <p>4 MR. LEE: Can you read my prior 5 question back, please?</p> <p>6 (Question on Page 175, Lines 7 13 through 17, read by the 8 reporter.)</p> <p>9 THE WITNESS: Could you read it 10 again so I can -- he's kind of rambling on with the 11 question there, trying to --</p> <p>12 MR. LEE: Sure. I'll ask a 13 different question.</p> <p>14 THE WITNESS: Do you want to strike 15 that question? Is that what you're doing then? So I 16 don't have to answer it?</p> <p>17 MR. LEE: I'll ask a different 18 question.</p> <p>19 THE WITNESS: Okay.</p> <p>20 Q (By Mr. Lee) Sir, do you have any information that 21 Owens-Illinois had reason to believe, prior to 22 December 18th, that Mike Cascino didn't have 23 authority to enter into settlement negotiations on 24 the estate's behalf?</p> <p>25 A I don't have such information aside from what I</p>	<p>1 A It is -- there are several. "Follow up," "flagged."</p> <p>2 It's, Should we wait for -- to confirm on the Crider 3 and Connell, or are we passing for now? So that's 4 one of the things. I don't know what that relates 5 to.</p> <p>6 The other subject is "Viola & Suoja." And this 7 one says at December 18th at 1:48 p.m.: "We accept," 8 something, "on Viola and Suoja. Have a great 9 holiday. Thanks."</p> <p>10 Q Okay. What is the immediately preceding 11 communication from Mr. Casmere?</p> <p>12 A The immediate preceding one was, "Thanks, you too. 13 Should we wait you to confirm yes/no on Crider and 14 Connell, or are we passing on that for now?"</p> <p>15 Q Okay. Do you see that that e-mail says, "We accept 16 on Suoja and Viola"?</p> <p>17 A That was on --</p> <p>18 MR. McCOY: You know, let me just 19 again make a statement that this has all been decided 20 already that there wasn't an agreement, it was 21 stipulated to, that Mike Cascino made. That's 22 stipulated to. It's been acknowledged. I mean, I 23 don't know what the purpose of asking Gary to admit 24 something that my firm's already stipulated to --</p> <p>THE WITNESS: All I'm --</p>

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<p>1 MR. McCOY: -- on his behalf --</p> <p>2 THE WITNESS: All I'm doing --</p> <p>3 MR. McCOY: -- and serve here, but</p> <p>4 go ahead with your questions.</p> <p>5 MR. LEE: Well, I'll tell you, Bob,</p> <p>6 the purpose of this is Mr. Suoja just accused me and</p> <p>7 my firm of making this whole thing up. So I want to</p> <p>8 make sure that we're all on the same page as to what</p> <p>9 Mike did.</p> <p>10 THE WITNESS: Well, are you</p> <p>11 testifying?</p> <p>12 MR. LEE: No. I'm responding to</p> <p>13 Mr. McCoy.</p> <p>14 Q (By Mr. Lee) So, Mr. Suoja --</p> <p>15 MR. McCOY: All right. Well, like</p> <p>16 I said, it's -- I mean, it's all stipulated to. It</p> <p>17 was stipulated to as part of the defense of the</p> <p>18 motion that Mike Cascino did make an agreement to</p> <p>19 settle with Ed Casmere. There's no question about</p> <p>20 it. So if you want to -- like I said, I don't know</p> <p>21 what the purpose is to serve, because that</p> <p>22 representation was made as an agent for the Suoja</p> <p>23 family that my firm made, and it's binding on them.</p> <p>24 So if you want to pursue it further, I guess -- I</p> <p>25 guess, you know, we can spend the time, but hopefully</p>	<p>1 to wait for authority from the family or anything</p> <p>2 like that, is there?</p> <p>3 A I don't see any reference to it that he listed there.</p> <p>4 That would appear to -- that would appear on this.</p> <p>5 So...(Pause.)</p> <p>6 Q Okay. And, in fact, then, Mr. Casmere tried to</p> <p>7 confirm again what the agreement was and confirm</p> <p>8 whether there was a broader agreement than just on</p> <p>9 the Voila and the Suoja cases. And Mr. Cascino</p> <p>10 responded and just said, no, just those two cases,</p> <p>11 right?</p> <p>12 A I don't quite know what you're saying. If you're</p> <p>13 testifying what it says, it says what it says. I</p> <p>14 mean, I don't quite interpret what you're saying the</p> <p>15 same. There were just additional e-mails.</p> <p>16 Q All right. So is it your testimony that if we want</p> <p>17 to understand this e-mail, we should probably talk to</p> <p>18 Mike Cascino?</p> <p>19 A Or maybe Mr. Casmere.</p> <p>20 Q Okay. Show you what we've marked -- we're going to</p> <p>21 mark as Exhibit 8 for your deposition.</p> <p>22 (Exhibit No. 8 marked for</p> <p>23 identification.)</p> <p>24 Q (By Mr. Lee) Do you have Exhibit 8 in front of you,</p> <p>25 Mr. Suoja?</p>
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<p>1 we can cut some of that. Go ahead.</p> <p>2 Q (By Mr. Lee) Okay. On the second page of Exhibit 7,</p> <p>3 Mr. Suoja, the initial e-mail from Ed Casmere to Mike</p> <p>4 Cascino is December 18th, 2014, at 12:13 p.m.,</p> <p>5 correct?</p> <p>6 A I don't see that on the second page.</p> <p>7 Q Sorry. It moves from the bottom of the second page</p> <p>8 over -- or the bottom of the first page over to the</p> <p>9 top of the second page; is that correct?</p> <p>10 A That appears to be the case. It's assuming that this</p> <p>11 is a string of e-mails.</p> <p>12 Q Okay.</p> <p>13 A Because there's no date on the second page other than</p> <p>14 the filed date, that this Document 46, dash, 3 filed</p> <p>15 1/12/15.</p> <p>16 Q Okay. And what Mr. Casmere said to Mr. Cascino in</p> <p>17 that December 18th, 2014 e-mail at 12:13 is, "Mike,</p> <p>18 please allow this e-mail to confirm the settlement of</p> <p>19 the Voila and Suoja cases," correct?</p> <p>20 A That's what it says.</p> <p>21 Q And then Mr. Cascino, at 1:48 p.m. on December 18th,</p> <p>22 responded to Mr. Casmere, saying, "We accept on Voila</p> <p>23 and Suoja," correct?</p> <p>24 A That's what it says.</p> <p>25 Q Okay. There's no ambiguity about that, about having</p>	<p>1 A I do.</p> <p>2 Q What is that?</p> <p>3 A This looks to be a copy of an e-mail that I sent to</p> <p>4 Bob McCoy on December 18th.</p> <p>5 Q And what is the subject of the e-mail?</p> <p>6 A The subject of the e-mail is the offer by</p> <p>7 Owens-Illinois. This was the e-mail in which I</p> <p>8 firmly rejected, permanently, the Owens-Illinois</p> <p>9 offer, as previously I'd indicated I'd wanted them to</p> <p>10 hold off until I discussed it. And with this e-mail,</p> <p>11 I rejected the offer.</p> <p>12 Q Okay. And so this says that you discussed the offer</p> <p>13 with your sister, who spent a number of years as a</p> <p>14 clerk in the Winnebago County courts and as a</p> <p>15 secretary in the prosecutor's office.</p> <p>16 Which sister is that?</p> <p>17 A That's my sister Sue.</p> <p>18 Q Okay. It says, "The only other sibling who had" --</p> <p>19 "who would have an interest is my sister Kimberly,"</p> <p>20 and then it talks about your brother's surviving</p> <p>21 spouse and his two children by his first wife; is</p> <p>22 that correct?</p> <p>23 A That's correct.</p> <p>24 Q Okay. You didn't talk to Kimberly about this offer,</p> <p>25 did you?</p>

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<p>1 A No, I did not.</p> <p>2 Q Okay. And you didn't talk to your brother's wife; is</p> <p>3 that correct?</p> <p>4 A I did talk to my brother's wife, but I didn't talk</p> <p>5 directly about the settlement. I talked to her to</p> <p>6 see how things were going with her, what her</p> <p>7 situation was.</p> <p>8 Q Okay. But you didn't inform her that there'd been a</p> <p>9 settlement offer?</p> <p>10 A No, I did not.</p> <p>11 Q Okay. And you did not discuss the settlement offer</p> <p>12 with either of your brother's two children; is that</p> <p>13 right?</p> <p>14 A Lisa or Lynn. No, I did not.</p> <p>15 Q Okay. So the issue here, as you related to Mr. McCoy,</p> <p>16 is that you and your siblings are getting up in</p> <p>17 years; is that correct?</p> <p>18 A Every year, we grow older.</p> <p>19 Q Okay. And your sister Sue is two years younger, but</p> <p>20 with -- and then that's blacked out. Were you</p> <p>21 discussing her COPD at that time?</p> <p>22 A We were discussing her illness.</p> <p>23 Q Okay.</p> <p>24 A And her inability to participate in the transaction,</p> <p>25 in the case.</p>	<p>1 so he was aware of why I was getting to where I --</p> <p>2 was getting to with regard to the settlement.</p> <p>3 Q Okay. So it was for the purpose of informing Mr. McCoy</p> <p>4 about how and why to make a decision about the</p> <p>5 settlement offer?</p> <p>6 A Well, why I made the decision on the settlement. It</p> <p>7 was for the purpose of trial preparation and an</p> <p>8 evaluation of, here are the potential people</p> <p>9 involved, here's what we have, and a discussion about</p> <p>10 it.</p> <p>11 Q Okay.</p> <p>12 A And it was fairly direct and to the point. And then</p> <p>13 when I got down, you know, to the end, I just said,</p> <p>14 no, it's low and it's not acceptable, and asked him,</p> <p>15 What do we do next?</p> <p>16 Q Okay. So it looks like there's a section. It looks</p> <p>17 like there's about three -- well, two full paragraphs</p> <p>18 and a portion of two paragraphs --</p> <p>19 A Mm-hmm.</p> <p>20 Q -- blacked out.</p> <p>21 A Yep.</p> <p>22 Q So we can say there's a paragraph that says, "The</p> <p>23 portion [sic] of this preamble is not only to point</p> <p>24 out my father's survivors," comma, and then the rest</p> <p>25 of that paragraph is blacked out, correct?</p>
Page 183	Page 185
<p>1 Q Okay. Then you say that Kimberly is 13 years younger</p> <p>2 but with some disabilities; is that right?</p> <p>3 A That's correct.</p> <p>4 Q Then you talk about your sister-in-law Marsha having</p> <p>5 a number of serious medical issues; is that correct?</p> <p>6 A That's correct.</p> <p>7 Q And then you say you can't talk about your brother's</p> <p>8 daughters because it's been a while since you've</p> <p>9 talked to them?</p> <p>10 A That's correct. Since my brother's funeral.</p> <p>11 Q Okay. And then it said, "The purpose of this</p> <p>12 preamble is not only to point out my father's</p> <p>13 survivors," and then the rest is blacked out?</p> <p>14 A That's correct.</p> <p>15 Q What's in the blacked-out portion?</p> <p>16 A None of your business. That's why it's redacted.</p> <p>17 Q Does it relate to the settlement offer?</p> <p>18 A No.</p> <p>19 Q What does it relate to?</p> <p>20 A It relates to my evaluation, for purposes of trial,</p> <p>21 of these individuals.</p> <p>22 Q Okay. Was that for the purpose of determining</p> <p>23 whether the settlement was appropriate or not?</p> <p>24 A No. I would say it was more just a -- an overall</p> <p>25 view on my part to Mr. McCoy on what was going on and</p>	<p>1 A You're very good at pointing out what's on the paper.</p> <p>2 Q And then there's a paragraph that follows that,</p> <p>3 that's blacked out; is that correct?</p> <p>4 A You're getting even better.</p> <p>5 Q That's three lines, correct?</p> <p>6 A That's -- that's correct.</p> <p>7 Q And then there's a second paragraph that follows</p> <p>8 those three lines that's also blacked out; is that</p> <p>9 correct?</p> <p>10 A It's amazing how you've noticed that.</p> <p>11 Q And so, sir, the three lines that are blacked out,</p> <p>12 those talk about your assessment of the case?</p> <p>13 A Those directly related to my assessment on what was</p> <p>14 going to go on in the case and the impact. And they</p> <p>15 were directed only to Bob McCoy. They were between</p> <p>16 me and Mr. McCoy regarding the case.</p> <p>17 Q Okay. And then the second paragraph that is blacked</p> <p>18 out is a paragraph of, looks about two lines; is that</p> <p>19 correct?</p> <p>20 A Boy, you're -- you're right on.</p> <p>21 Q What's included in that paragraph?</p> <p>22 A Same material.</p> <p>23 Q Okay.</p> <p>24 A It's blacked out because we don't want to tell you</p> <p>25 what's in there and it's -- it's redacted for that --</p>

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<p>1 for that reason. We don't do the trial preparation 2 work or give you that information.</p> <p>3 Q Well, and, sir, part of the issue here is that you 4 understand that when you put your attorney's conduct 5 at issue, you waive the privilege with regard to that 6 conduct, right?</p> <p>7 A Well, that's -- it has nothing to do with Mike 8 Cascino.</p> <p>9 Q And I don't know that. I've never seen the --</p> <p>10 A Well, I -- I.</p> <p>11 Q -- rest of this.</p> <p>12 A Now you do.</p> <p>13 Q So I'm just inquiring.</p> <p>14 A I've told you it doesn't have anything to do with 15 Mike Cascino.</p> <p>16 Q But it has to do with the settlement negotiations?</p> <p>17 A And as you can see, it was a rejection of the 18 settlement negotiations. So now you know.</p> <p>19 Q And all I'm inquiring, sir, I don't know if there'll 20 be additional motion practice, but I'm entitled to 21 inquire with regard to this document as to the basis 22 for the privilege. And that's what I'm trying to get 23 at. And when you selectively redact a document that 24 we've never seen, I have the right to inquire as to 25 what's been redacted.</p>	<p>1 it's redacted. Because it doesn't relate to the 2 precise issue of the enforcement of the alleged 3 agreement for \$150,000 and authority for that amount 4 of money.</p> <p>5 Go ahead. You can answer it, Gary.</p> <p>6 MR. LEE: So, Bob, I'm not asking 7 him to tell me what's those words.</p> <p>8 MR. McCLOY: I said he can answer.</p> <p>9 He can answer it. Subject to what we've agreed to as 10 the limited waiver of the privilege, he can answer, I 11 believe.</p> <p>12 MR. LEE: Well, okay. Go ahead and 13 give me your answer, sir, and we'll see if there's 14 additional questions.</p> <p>15 MR. McCLOY: Why don't you read back 16 the question just so he knows where we're heading. 17 He'll answer it within the scope of our waiver.</p> <p>18 MR. LEE: Well, Bob, you don't get 19 to determine the scope of your waiver. That's a 20 judicial question.</p> <p>21 THE WITNESS: Well, if I can ask a 22 question to clarify this: Has -- have these e-mails 23 and these documents been sent to the court for an in 24 camera review on the issues that Owens-Illinois is 25 reviewing?</p>
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<p>1 A Okay. But that kind of defeats the purpose of 2 redacting, then, doesn't it?</p> <p>3 Q Do you recall actually what words are here in the 4 redaction?</p> <p>5 A I -- I can't recall the exact words. I'd have to go 6 to the original.</p> <p>7 Q Okay. Can you state for a fact that everything here 8 is solely strategy about litigating the case?</p> <p>9 A I would say "yes."</p> <p>10 Q Okay. And after, "That being said, both my sister 11 Sue and I feel that the settlement offer is on the 12 low side," there is a second -- well, there's a 13 series of redactions following that sentence as well, 14 correct?</p> <p>15 A That's correct.</p> <p>16 Q What is the subject matter of those redactions?</p> <p>17 A That's more of the same. But it is -- it is a 18 different position that we've decided to redact.</p> <p>19 Q What do you mean by "different position"?</p> <p>20 A It relates to our position in the litigation.</p> <p>21 Q Okay. But does it relate to settlement negotiations?</p> <p>22 MR. McCLOY: He can answer if it 23 relates to that topic, but that's not the issue 24 that's before us. The issue before us is -- but 25 he can't disclose what's in there. That's why</p>	<p>1 MR. McCLOY: They have been 2 presented by our motion. That's correct.</p> <p>3 THE WITNESS: Then that -- that 4 would seem --</p> <p>5 MR. McCLOY: By Owens-Illinois.</p> <p>6 THE WITNESS: That would seem to be 7 the place to get all of these questions answered as 8 to whether they can see any of this stuff or not. 9 Rather than asking me the questions about them, is 10 the court will let you know what they feel you're 11 entitled to see --</p> <p>12 MR. LEE: Actually --</p> <p>13 THE WITNESS: -- based on the 14 motion.</p> <p>15 MR. LEE: -- you know, sir, I don't 16 know that these have been presented, because Mr. McCoy 17 has not shared with us what documents have been 18 provided.</p> <p>19 THE WITNESS: Well, I've -- I've 20 asked Mr. McCoy, and so I believe that these have 21 been, based on what he's indicated, that they've been 22 sent to the court for in camera review and then the 23 court will advise you as to what you can see with 24 regard to these e-mails.</p> <p>25 MR. LEE: Okay.</p>

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1	MR. McCOY: They have been, yes,	1 Q Now, you have told us that you understand that you
2	presented. So, again, you know, the questions	2 are the special administrator for the estate of your
3	about these e-mails are privileged. We've already	3 father, right?
4	asserted that. That's why they're redacted. Gary	4 A That's correct.
5	can either provide whatever he can answer to it,	5 Q And you believe that there was an estate that was
6	or he's not going to answer because it's privileged.	6 opened on your behalf for your father, correct?
7	So subject to that, like I say, I think he can	7 A That's correct.
8	provide whatever answer within the scope of what --	8 Q And you've testified that that didn't happen until
9	what's been agreed upon as a limited waiver.	9 2009 the first time?
10	Q (By Mr. Lee) The subject matter of the redaction in	10 A Well, the -- the transfer over of the estate
11	the second-to-last paragraph of your e-mail to	11 apparently was in 2009.
12	Mr. McCoy on December 18th, 2014, at 10:33 p.m., does	12 Q Okay.
13	it relate to the settlement offer made by	13 A That's on this matter. I don't know if it would have
14	Owens-Illinois?	14 occurred on other matters. Because I think Mr. McCoy
15	A It relates to correspondence and discussions between	15 indicated that this was in this particular case that
16	and my request and discussions with Bob McCoy. To	16 he had an order. So it's possible that it occurred
17	that extent, that's -- I believe it to be privileged.	17 related to other matters. And, frankly, I don't -- I
18	Q Okay.	18 don't recall and didn't keep track, I mean,
19	A And the redactions are privileged. And -- and if the	19 so...(Pause.)
20	documents, which I believe they are, are in court,	20 Q In fact, you were actually appointed special
21	then the court can determine if there's more of it	21 administrator by the State of Wisconsin to pursue
22	that should be disclosed.	22 lawsuits with regard to your father's estate in this
23	Q And I don't know whether that document's been	23 April of 2002, correct?
24	presented, because we haven't been provided with it.	24 A I don't know.
25	So I'm just asking because we may have other issues,	25 Q Okay.
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1	and I'm trying to get the full record on that, sir.	1 A I don't recall.
2	A Well, I -- I understand that. But Mr. McCoy has	2 Q I'm going to hand you what we've marked as Exhibit 9
3	represented that, and I trust my lawyer.	3 for your deposition, sir.
4	Q As you should.	4 (Exhibit No. 9A marked for
5	MR. McCOY: Okay. Next question, I	5 identification.)
6	guess.	6 Q (By Mr. Lee) Let me know when you've had a chance to
7	THE WITNESS: You've got quite a	7 go ahead and read through all those pages, sir.
8	load of paper there. Did you have to pay extra to	8 A Okay. I've had a chance to go through them.
9	get it on the plane?	9 Q Okay. Are these documents that relate to the estate
10	MR. LEE: No, I did not. I'm a	10 of Oswald Suoja?
11	compact packer.	11 A They appear to be in the matter of the estate,
12	(Exhibit No. 9 marked for	12 Special Administration, Order of Discharge, in
13	identification.)	13 Wisconsin Circuit Court, Douglas County.
14	Q (By Mr. Lee) Now, you've testified before that	14 Q Okay.
15	you've never had any conversations with Mike Cascino?	15 MR. McCOY: You know, once again, I
16	A Not to my recollection.	16 don't know what relevance there is in the state court
17	Q Never met Mike Cascino?	17 proceeding here. The judge has already said there's
18	A I have never met Mike Cascino, no.	18 no issues about the appointment of Gary Suoja. We're
19	Q Never worked with him on anything that has to do with	19 talking about a matter that was in the federal court
20	the estate?	20 case which was -- had some special administration
21	A Not to my knowledge.	21 appointment and the enforcement of the alleged
22	Q Okay.	22 agreement made for one of the -- for the defendant in
23	A I think, as I said, I might have received a letter or	23 that -- in that particular case.
24	something from him, but I don't ever recall talking	24 So I don't know why there needs to be any
25	to Mike Cascino.	25 discussion about the earlier case and the estate

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<p>1 matters in that earlier case. The judge has already 2 said discovery is denied on the appointment on the 3 estate matters. You want to -- I mean, at some point 4 in time, I guess Gary probably needs to go on his 5 hourly billing rate.</p> <p>6 MR. LEE: Bob, are you making an 7 objection to form or foundation?</p> <p>8 MR. McCOY: I'm making an objection 9 to the -- what appears to be, you know, a violation 10 of the court order on the scope of discovery and what 11 appears to be, you know, basically harassment of a 12 witness in a deposition. This has gone on where you've 13 been reading things and saying, "Is that what it 14 says? Is that what it says? Is that what it says?" 15 on topics that aren't even within the scope of discovery 16 here.</p> <p>17 So, like I said, at some point in time, I think 18 we should -- we're going to consider a motion here 19 for charging you for Gary's hourly billing rate for 20 that sort of conduct. Subject to that, though, you 21 can go ahead at your peril here, because we may make 22 that motion, okay?</p> <p>23 MR. LEE: That's okay, Bob. What I 24 want to do, is we're starting to run out of the 25 second tape. I actually have a copy of the order</p>	<p>1 to our motion to extend discovery, which allowed 2 discovery both with regard to the alleged settlement 3 and with regard to the previous state court action. 4 That's marked as Exhibit 10.</p> <p>5 Q (By Mr. Lee) Do you have Exhibit 9 in front of you, 6 sir?</p> <p>7 A I have Exhibit 9 in front of me.</p> <p>8 Q Are those documents that relate to your appointment 9 as special administrator of your father's estate?</p> <p>10 A I have one here that's dated January 2nd, 2007, that 11 discharges me. Here's one where I state that I am 12 the special administrator. Says December 18th, 2006.</p> <p>13 MR. McCOY: So...(Pause.)</p> <p>14 THE WITNESS: I'm sorry. Did -- 15 there's --</p> <p>16 MR. McCOY: I didn't mean to 17 interrupt. Is the --</p> <p>18 THE WITNESS: Okay.</p> <p>19 MR. McCOY: -- answer finished?</p> <p>20 THE WITNESS: No. There's one 21 that's a Notice of Summary Procedures Deadline that's 22 dated December 8th, 2006. Notice to Close Estate 23 dated August 29th, 2006. A letter on Cascino Vaughan 24 letterhead. It's dated May 22nd, 2006. There is 25 a -- I don't know what the -- Letter of Special</p>
<p>1 allowing the discovery here. It's not quite as 2 limited as you state, and so I'm just going to make 3 that an exhibit.</p> <p>4 Mr. Suoja can read through it if he wants to or 5 not. But I'm going to make that an exhibit here. 6 But I'll do that after we change the tape.</p> <p>7 THE VIDEOGRAPHER: This is the end 8 of Disc 2. This dep -- I'm sorry?</p> <p>9 MR. LEE: We're going off the 10 record.</p> <p>11 THE VIDEOGRAPHER: This is the end 12 of Disc 2. We will continue on Disc 3. Time now is 13 3:04 p.m.</p> <p>14 (Pause in proceedings from 15 3:04 p.m. to 3:14 p.m.)</p> <p>16 (Exhibit No. 10 marked for 17 identification.)</p> <p>18 THE VIDEOGRAPHER: Back on record. 19 This is the beginning of Disc 3 in the continuing 20 deposition of Gary Suoja. Time now is 3:14 p.m.</p> <p>21 MR. LEE: In response to Mr. McCoy's 22 statements about the scope of the order entered by 23 the judge, I've attached or marked as an Exhibit to 24 Mr. Suoja's deposition the April 14th, 2015 order, 25 Document No. 77 in this case, by the judge relating</p>	<p>1 Page 197</p> <p>1 Administration dated April 29, 2002, that's directed 2 to me. That's powers to prosecute actions. 3 And then another one dated April 29th, 2002 -- 4 they're all filed at the same time -- about Special 5 Administration Petition, Special Administration Order 6 Appointing Special Administrator.</p> <p>7 MR. McCOY: Is that the end of the 8 answer?</p> <p>9 THE WITNESS: Yeah. That's -- 10 that's what Exhibit 9 appears to be to me.</p> <p>11 MR. McCOY: So my objection is 12 relevance, and that's contempt to ask that question.</p> <p>13 MR. LEE: What's that? It's 14 relevance, and I didn't hear the other part, Bob.</p> <p>15 MR. McCOY: Contempt.</p> <p>16 MR. LEE: Contempt?</p> <p>17 MR. McCOY: Go ahead. Go ahead.</p> <p>18 MR. LEE: You're going to move -- 19 you're threatening me with contempt for asking these 20 questions; is that right, Bob?</p> <p>21 MR. McCOY: Go ahead.</p> <p>22 MR. LEE: No, I just want to make 23 sure what "contempt" means, since it's not a proper 24 objection in a deposition. You're threatening to 25 seek contempt against me if I continue to ask</p>

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<p>1 questions; is that right?</p> <p>2 MR. MCCOY: Go ahead, Josh.</p> <p>3 MR. LEE: Bob, I really need</p> <p>4 to understand what you're threatening here.</p> <p>5 MR. MCCOY: Go ahead, Josh, please.</p> <p>6 I've made my statement. I don't want to waste any</p> <p>7 more time.</p> <p>8 MR. LEE: I have the opportunity</p> <p>9 understand what the objection is, Bob. Are you</p> <p>10 threatening me with contempt? Is that what that</p> <p>11 means?</p> <p>12 MR. MCCOY: You can go ahead with</p> <p>13 your questions, please.</p> <p>14 MR. LEE: Well, if I have an</p> <p>15 obliga -- Bob, if you think I need to rephrase my</p> <p>16 question in some way that won't get me into contempt,</p> <p>17 please tell me. I would like to confer with you</p> <p>18 about your objection.</p> <p>19 MR. MCCOY: I have nothing to add.</p> <p>20 You've read the court order, obviously. You marked</p> <p>21 it. Go ahead.</p> <p>22 MR. LEE: Okay. So I'd like to put</p> <p>23 on the record that while we were off the record</p> <p>24 during the last break, Mr. McCoy threatened me with</p> <p>25 sanctions if I continued with this deposition. I</p>	<p>1 A That's what the petition requests.</p> <p>2 Q And what you knew was that you were seeking to be</p> <p>3 appointed special administrator to pursue lawsuits</p> <p>4 related to your father's asbestos exposure; is that</p> <p>5 right?</p> <p>6 A I would presume that would be the case --</p> <p>7 Q Have you contemplated --</p> <p>8 A -- with these.</p> <p>9 Q Sorry. Have you contemplated filing lawsuits on</p> <p>10 behalf of your father's estate for any reason other</p> <p>11 than his asbestos exposure?</p> <p>12 MR. MCCOY: Let me object to that</p> <p>13 question on attorney/client grounds. And -- but</p> <p>14 subject to that, he can answer. And I say that in</p> <p>15 two ways. One is as to discussions with my firm,</p> <p>16 second as to his own thoughts as a lawyer versus his</p> <p>17 thoughts as a nonlawyer, if he can separate that out.</p> <p>18 Subject to all that, you can answer, Gary.</p> <p>19 THE WITNESS: These items were</p> <p>20 prepared by Cascino Vaughan, sent to me for</p> <p>21 signature, and that's where I went. Now, possibility</p> <p>22 of bringing other lawsuits for other things on other</p> <p>23 occasions, we probably did talk about it, but nothing</p> <p>24 ever went anywhere.</p> <p>25 Q (By Mr. Lee) Okay. So when these documents were</p>
<p style="text-align: center;">Page 199</p> <p>1 take his contempt statement as a continuation of that</p> <p>2 threat.</p> <p>3 Q (By Mr. Lee) That being said, sir, what you've got</p> <p>4 in front of you as Exhibit 9, are those documents</p> <p>5 relating to your appointment as the special</p> <p>6 administrator of your father's estate?</p> <p>7 A They appear to be. And this is for -- appears to be</p> <p>8 for certain items.</p> <p>9 Q And if we look at -- would you agree that you were</p> <p>10 appointed special administrator of your father's</p> <p>11 estate on April 29th, 2002?</p> <p>12 A That -- there's a document in here that seems to do</p> <p>13 that.</p> <p>14 Q Okay. And you were aware that you were seeking</p> <p>15 appointment as the special administrator for your</p> <p>16 father in April of 2002?</p> <p>17 A Based on this, yes.</p> <p>18 Q You actually signed the petition to be appointed</p> <p>19 special administrator --</p> <p>20 A That's --</p> <p>21 Q -- in 2002?</p> <p>22 A That's correct.</p> <p>23 Q And in 2002, you know -- you knew that you were being</p> <p>24 appointed administrator to pursue legal action,</p> <p>25 lawsuits, on behalf of your father's estate, right?</p>	<p style="text-align: center;">Page 201</p> <p>1 prepared by Cascino Vaughan and sent to you, you knew</p> <p>2 they were for the purpose of pursuing asbestos</p> <p>3 lawsuits; is that right?</p> <p>4 A That was generally my understanding.</p> <p>5 Q Okay. And, of course, since you signed them, you</p> <p>6 read them and got the best understanding of them that</p> <p>7 you could before you signed them, right?</p> <p>8 A Well, I -- I did talk to -- as a matter of fact, I</p> <p>9 believe I saw Jill Rakauski's name on one of these.</p> <p>10 I did talk to Jill Rakauski generally when there was</p> <p>11 something like this going on. She was the one that I</p> <p>12 had access to.</p> <p>13 And I -- I do -- as we talk about it, I do kind</p> <p>14 of remember her, before she left, sending off this,</p> <p>15 telling me that we had to sign to close this out for</p> <p>16 some -- some reason. I don't know what it was. But</p> <p>17 said we had to close this out. So she sent that to</p> <p>18 me, and I signed off at some point, or okayed it,</p> <p>19 signed.</p> <p>20 Q Okay. Included in these documents is a petition</p> <p>21 for discharge as administer -- administrator of your</p> <p>22 father's estate; is that right?</p> <p>23 A That's correct.</p> <p>24 Q We've marked as Exhibit 9A for your deposition, sir,</p> <p>25 a subset of the documents that are included in</p>

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<p>1 Exhibit 9. And what's marked as 9A is your petition 2 for discharge as special administrator of your 3 father's estate, correct?</p> <p>4 A That's correct. So the subset consists of one page.</p> <p>5 Q Okay. And you signed that petition for discharge, 6 correct?</p> <p>7 A That's correct.</p> <p>8 Q And it was notarized?</p> <p>9 A It was.</p> <p>10 Q It was notarized, in fact, here in the state of 11 Wisconsin -- or Washington; is that right?</p> <p>12 A That's correct. In Washington.</p> <p>13 Q And the discharge was filed -- or your petition was 14 filed in December of 2006; is that right?</p> <p>15 A I -- I would presume that. That's what seems to be 16 marked on the document.</p> <p>17 Q This lawsuit that we're talking about here today was 18 filed in '99 by your mother; is that right?</p> <p>19 A I don't know.</p> <p>20 Q It was filed by your mother before you became the 21 special administrator; is that correct?</p> <p>22 A I -- I don't know.</p> <p>23 Q All right.</p> <p>24 A If you -- if you say so, I can go with that.</p> <p>25 Q This lawsuit was pending in 2002 when you became the</p>	<p>1 Exhibit 9, and that's the -- out of the Circuit Court 2 of Douglas county.</p> <p>3 Q Wisconsin?</p> <p>4 A Wisconsin. And, yes, I did sign that. That is my 5 signature. I know the notary. Yes, that's mine.</p> <p>6 Q Okay. And I don't want to parse words. I think what 7 Mr. McCoy means when he says that Cascino Vaughan 8 filed this, they probably did the physical filing in 9 Wisconsin because you're here in Washington, right?</p> <p>10 A They prepared this and sent it to me for signature 11 and sending back to them, and I did so.</p> <p>12 Q And you reviewed it before you signed it; is that 13 right?</p> <p>14 A I -- I did. And I talked to Jill Rakauski about why.</p> <p>15 Q And you made sure you understood what you were doing, 16 right?</p> <p>17 A Well, I -- she -- I had her explain to me why it 18 needed to be done, and there was some question about 19 it. But there was the timing requirement, timing 20 limitation, and the court wanted it terminated.</p> <p>21 Q Okay. And you didn't -- there's no lawyer who signed 22 this petition for discharge, is there, other than 23 you?</p> <p>24 A Just me. That was signed at the recommendation of my 25 attorneys.</p>
<p style="text-align: center;">Page 203</p> <p>1 special administrator of your father's estate; is 2 that right?</p> <p>3 A I don't know.</p> <p>4 Q This lawsuit was pending in --</p> <p>5 A When you say "this lawsuit," which one specifically?</p> <p>6 The one that went to the Eastern District of 7 Pennsylvania?</p> <p>8 Q I'm talking about the lawsuit we're here in today, 9 sir.</p> <p>10 A Okay. This is the one in the Western District of 11 Wisconsin, federal court.</p> <p>12 Q Federal court, sir. The one that was filed in 1999.</p> <p>13 A Okay. I -- yeah, I don't know on the filing. I just 14 have no recollection of it. So I can't tell you.</p> <p>15 Q Okay. This lawsuit was pending in December of 2006 16 when you filed your petition for dissolution of the 17 estate, right?</p> <p>18 A I don't know.</p> <p>19 Q Okay. When you filed your --</p> <p>20 MR. MCCOY: Object again to the 21 statement that he filed anything. I mean, this was 22 all filed by, you know, Vaughan Law Offices.</p> <p>23 Q (By Mr. Lee) You signed the petition, didn't you, 24 sir?</p> <p>25 A My signature is on what's shown as Exhibit 9A and in</p>	<p style="text-align: center;">Page 205</p> <p>1 Q Right. But when Mr. McCoy says that it was the 2 lawyers that filed this, you're the one who took 3 action to sign this petition?</p> <p>4 A I -- I definitely signed it, had it notarized, and 5 sent it back to them.</p> <p>6 Q And you knew it was going to be filed?</p> <p>7 A I knew that they were going to use it for the 8 purposes they sent it to me for.</p> <p>9 Q For closing your father's estate, right?</p> <p>10 A In Douglas County, yes.</p> <p>11 Q Yes. And that was in 2006.</p> <p>12 A Right.</p> <p>13 Q Is that right?</p> <p>14 And you knew -- you made all of the 15 representations in the petition for discharge 16 intentionally, correct?</p> <p>17 A Well, I signed it.</p> <p>18 Q And I want to make sure that you understood what you 19 were doing when you were signing. You made these 20 representations --</p> <p>21 A It's a --</p> <p>22 Q -- voluntarily?</p> <p>23 A It's a very simple document. I did sign it.</p> <p>24 Q You signed it voluntarily?</p> <p>25 A I did.</p>

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1 Q And intentionally?	1 your assigned duties as the administrator of your
2 A I did at the recommendation of my attorney.	2 father's estate, right?
3 Q Okay. And you knew that it would close your father's	3 A For Douglas County, yes. Well, whatever it says
4 estate?	4 here.
5 A I knew that it was something that my attorney	5 Q Okay. And this lawsuit was pending at the time that
6 represented had to be done because the County	6 you discharged the estate, wasn't it?
7 required it.	7 A If you're testifying to that effect, then yes.
8 Q And you knew that it would close your father's	8 Q I'm asking whether you know.
9 estate?	9 A I don't know off the top of my head, no.
10 A I -- I signed it. And it does what it does.	10 MR. LEE: Bob, can we stipulate
11 Q Okay. And you never instructed your lawyers to	11 that this lawsuit was pending at the time Mr. Suoja
12 extend the estate, did you?	12 discharged the estate of Oswald Suoja in 2006?
13 A I -- I relied on my lawyers to handle everything that	13 MR. McCOY: The lawsuit that's
14 needed to be done.	14 within the Eastern District of Pennsylvania, I
15 Q Okay. And that's a fair statement. Did you ever --	15 stipulate that that was pending.
16	16 MR. LEE: Okay.
17 MR. McCOY: Let me -- before you	17 Q (By Mr. Lee) And the representation that you made
18 continue, I just want to make sure. I think it's clear,	18 when you filed for discharge of the estate was that
19 but these questions are all within the scope of my	19 you had completed the assigned duties as
20 objections about relevance and contempt. Go ahead.	20 administrator of your father's estate and collected
21 MR. LEE: Okay. So you're	21 all of the assets that were available which were
22 continuing to threaten me with contempt if I continue	22 attached as an exhibit to your petition for
23 to ask questions; is that right, Bob?	23 discharge, right?
24 MR. McCOY: I said go ahead. I've	24 A That's -- that is correct.
25 made the objections.	25 Q Okay. And so --
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1 MR. LEE: But I don't understand	1 A Shows we collected apparently to that point.
2 that. Because contempt's not an objection for a	2 Q Okay. And based on your representation that you had
3 deposition. So I'm trying to understand where we're	3 completed all of your assigned duties as special
4 at.	4 administrator of your father's estate and collected
5 MR. McCOY: Well, like I said, I'm	5 all the assets that were available, the court granted
6 not going to say anything more, because it's -- I	6 your petition for discharge as administrator of your
7 want the deposition to be ended as quick as possible.	7 father's estate?
8 Go ahead.	8 A Apparently they did.
9 MR. LEE: Okay.	9 Q Okay. And you would agree that you represented that
10 Q (By Mr. Lee) You didn't instruct your attorneys back	10 you had fully discharged your responsibilities as the
11 in 2006 to try and extend the estate; is that right?	11 special administrator of your father's estate at that
12 A No, not to -- not to my knowledge.	12 time?
13 Q Okay.	13 A That -- that would be the case.
14 A I'm not a Wisconsin lawyer. I listened to my	14 Q That's correct?
15 attorneys.	15 A To my knowledge, I had.
16 Q Okay. And one of the things that you did in filing	16 Q But that's the representation you made?
17 your petition -- if you go back to Exhibit 9, sir.	17 A That's -- that's correct. To my knowledge, I had.
18 With your petition, you actually included a list of	18 Q Okay. And you knew when you filed that petition for
19 everything you collected on behalf of the estate; is	19 discharge that there was litigation relating to your
20 that right?	20 father's asbestos exposure that was pending, correct?
21 A That appears to be the case.	21 A No, that's not necessarily true.
22 Q And those were all settlements from the asbestos	22 Q You didn't know that there was a lawsuit pending in
23 litigation on behalf of your father, right?	23 2006?
24 A That would be the case.	24 A No. As a matter of fact, I didn't. I don't -- I
25 Q Okay. And you listed that -- that you've completed	25 don't have a recollection of it, to tell you the

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<p>1 truth. I -- and as a matter of fact, as I'd 2 indicated, I'd had some frustration getting 3 information out of Cascino Vaughan as to where we 4 were. And some time ago, I thought we were pretty 5 much wrapped up. I was surprised to find out about 6 this litigation.</p> <p>7 Q When you say some time ago you thought you were 8 wrapped up with your father's --</p> <p>9 A Well, that -- that would have been in the -- you 10 know, earlier in the 2000s. I just -- I just didn't 11 get any impression that we had outstanding items yet.</p> <p>12 Q Okay. So early in the 2000s, you thought that 13 litigation had been concluded?</p> <p>14 A It was being concluded. That's -- that's correct. I 15 thought everything was pretty much wrapped up. You 16 know, when things get drug out over 20 years, it's 17 easy to lose track of things, especially when they 18 dribble in a little bit at a time and they just sit.</p> <p>19 Q Do you know if between 2002 and 2007, you signed any 20 documents on behalf of your father's estate regarding 21 litigation?</p> <p>22 A I do not recall, to tell you the truth.</p> <p>23 Q Okay. You would agree with me that if you had signed 24 documents as the special representative or special 25 administrator of your father's estate in that time,</p>	<p>1 preparing this, so that's the way we went.</p> <p>2 Q Okay. And I just want to make sure that we're clear 3 as to what you were representing to the court.</p> <p>4 You were representing that there were no further 5 claims to be pursued on behalf of your father's 6 estate as of two thousand --</p> <p>7 A To the best of my --</p> <p>8 Q -- six?</p> <p>9 A -- knowledge and belief, that was the case.</p> <p>10 Q Okay.</p> <p>11 MR. McCOY: Let me also add, I 12 think that in the actions that are taken based on 13 advice of Cascino Vaughan Law Offices, he can assert 14 privilege to any communications with my law firm, but 15 he can also answer if he wants to. So I'm not 16 directing him to not answer these questions. He can 17 make his judgment on it. So I think he has been as 18 to this probate matters. Go ahead. And again, I'm 19 continuing my concerns that I expressed about 20 relevance and contempt throughout this. Go ahead, 21 though.</p> <p>22 MR. LEE: And so, Bob, just so that 23 you understand, what I'm probing here is any 24 preclusive effect that Mr. Suoja's actions with 25 regard to any prior litigation would have had on this</p>
<p style="text-align: center;">Page 211</p> <p>1 you had to know that there was litigation pending?</p> <p>2 A I -- I would -- certainly that would, you know, 3 wake -- wake things up. But as I said, this thing 4 has dribbled on so long, and there was, you know, 5 just a little sporadic activity and then that would 6 be it, and trying to find out what's going on. And 7 nothing -- we'd hear nothing and nothing, and it 8 would just go on. So I -- I thought we were pretty 9 much all wrapped up.</p> <p>10 Q Okay. You believed at the time that you filed your 11 petition for dissolution of your father's estate that 12 all the claims had been resolved?</p> <p>13 A Or were being resolved or pretty much there.</p> <p>14 Q But you represented to the court that all the claims 15 had been --</p> <p>16 A That's --</p> <p>17 Q -- resolved, correct?</p> <p>18 A That's what I signed here, yes.</p> <p>19 Q And you represented -- and your intention was to 20 represent to the court that there were no further 21 claims to --</p> <p>22 A To the best --</p> <p>23 Q -- pursue on behalf of your father's estate?</p> <p>24 A To the best of my knowledge and belief, and based on 25 the information from my attorneys, and they were</p>	<p style="text-align: center;">Page 213</p> <p>1 subsequent litigation. And will you at least agree 2 that that is exactly what the court ordered we were 3 allowed to inquire as to?</p> <p>4 MR. McCOY: I think it's contempt, 5 what you're doing, like I said. But go ahead.</p> <p>6 MR. LEE: Okay.</p> <p>7 Q (By Mr. Lee) If this case was filed in 1999, you 8 would agree that by 2002, you had been appointed as 9 special administrator to pursue this action on behalf 10 of your father's estate, right?</p> <p>11 A I'm -- to begin with, I'm not certain when this case 12 was filed. Frankly, I don't know. I just relied on 13 the attorneys. You're asking me as though I were a 14 probate attorney. I'm not. I don't know. I relied 15 on Cascino Vaughan and what they recommended to me 16 and what we discussed, and that -- that's generally 17 the direction we would go.</p> <p>18 You know, with regard to -- to items of 19 settlement and with regard to some recommended 20 language, those things were -- you know, I would 21 always write on things. I would always ask 22 questions. But for the most part, you know, for -- 23 for things like filings and what cases and so on, I 24 just relied on Cascino Vaughan.</p> <p>25 Q Sure. And I'm asking you these questions, sir, because</p>

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<p>1 on several occasions there were documents that were 2 signed and representations made both by you and by 3 your lawyers that there was no other litigation pending. 4 We found out since that there was a prior lawsuit 5 that actually named Owens-Illinois as a potentially 6 responsible party that was then dismissed. And now 7 we have found that there was a prior estate that was 8 opened and then closed. And none of that has been 9 disclosed to us until we got to this point.</p> <p>10 You know, you've seen your own verification that 11 there was no other lawsuit. And so what I'm trying 12 to figure out is, we don't have information about 13 that, sir, and I'm trying to figure out what actions 14 you took in that prior lawsuit and whether they might 15 be preclusive.</p> <p>16 A Of what?</p> <p>17 Q Of this lawsuit.</p> <p>18 MR. McCOY: Let me object, object 19 to this -- whatever that was, but it's certainly not 20 a proper question. I mean, it's compound.</p> <p>22 THE WITNESS: You know, I'm sorry. 23 I -- you know, I appreciate what you're trying to do. 24 But you just said you were dismissed out of the case. 25 So how in the world do we go through three hours of</p>	<p>1 You can go ahead and answer to the best of your 2 knowledge there, Gary. 3 THE WITNESS: Yeah. Well, it is 4 what it is. And if -- if you don't like it or feel 5 it's inconsistent, that's -- that's up to you. 6 Q (By Mr. Lee) Okay. Do you know if any documents 7 relating to other lawsuits on behalf of your father's 8 estate have been destroyed?</p> <p>9 A I --</p> <p>10 MR. McCOY: Let me object again to 11 the --</p> <p>12 THE WITNESS: I wouldn't know. 13 MR. McCOY: -- to the statement by 14 counsel about the factual background there. But you 15 can go ahead and answer.</p> <p>16 THE WITNESS: I -- I wouldn't know. 17 MR. LEE: Okay. 18 THE WITNESS: I...(Pause.)</p> <p>19 Q (By Mr. Lee) Have you instructed your lawyers to 20 destroy any documents related to your father's 21 estate?</p> <p>22 A No.</p> <p>23 Q Have you --</p> <p>24 MR. McCOY: I'll object again based 25 on privilege. But he can answer the question if he</p>
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<p>1 this nonsense when you already state you were 2 dismissed out of the prior case? I don't understand. 3 It -- maybe I'm not as bright as you are, and that's 4 probably true. But it seems to me that we've just 5 been running around the pole, wasting time.</p> <p>6 Q (By Mr. Lee) Well, sir, part of this is that there 7 have been several representations -- and you've seen 8 some of them yourself, right -- that you have 9 verified that there was no prior litigation relating 10 to your father's asbestos exposure, right?</p> <p>11 A I -- I indicated that I think somewhere in here there 12 was something about, you know, litigation. And I 13 don't know if it was prior or concurrent or whatever. 14 And to the best of my knowledge and belief, there 15 wasn't.</p> <p>16 Q Okay. And so that's -- if there was a prior or 17 concurrent litigation, your statement that there 18 wasn't is an inconsistency, correct?</p> <p>19 A Well, it's --</p> <p>20 MR. McCOY: I object to that as, 21 again, calling for some form of legal conclusion and 22 as argumentative. You can ask -- you may ask him what 23 he knows. He's said what he knows. To ask him to make 24 conclusions of law based on that, that's not proper 25 here.</p>	<p>1 wants to waive it. 2 THE WITNESS: Yeah. I can waive 3 it. The answer is "no." 4 Q (By Mr. Lee) Have you instructed your lawyers to 5 destroy any documents related to the litigation of 6 issues related to your father's asbestos exposure, 7 whether in this lawsuit or any other lawsuit?</p> <p>8 A No.</p> <p>9 MR. McCOY: Same objection. Go 10 ahead.</p> <p>11 THE WITNESS: And again, I'll waive 12 this. Absolutely not.</p> <p>13 Q (By Mr. Lee) Okay. Have your lawyers told you that 14 they've destroyed any documents related to this 15 lawsuit or any other lawsuit related to your father's 16 asbestos exposure?</p> <p>17 A Well, that's probably --</p> <p>18 MR. McCOY: Same objection.</p> <p>19 THE WITNESS: That's probably over 20 the board on -- with disclosure. And so I -- I will 21 not answer that, because I don't want to waive any 22 attorney/client privilege.</p> <p>23 MR. LEE: Okay.</p> <p>24 THE WITNESS: But that's -- that's 25 just too far over the pale on that question.</p>

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<p>1 Q (By Mr. Lee) Okay. Do you know whether any 2 documents related to your father's -- to litigation 3 relating to your father's asbestos exposure have been 4 destroyed?</p> <p>5 A No, I do not. I do not believe they have. But I -- 6 you know, I have no knowledge of that occurring.</p> <p>7 MR. MCCOY: Does that conclude the 8 documents of Owens-Illinois, Josh? Go ahead.</p> <p>9 THE WITNESS: You mean the ones 10 they destroyed because they were trying to cover up 11 what they knew? Is that what you're referencing, 12 Bob?</p> <p>13 MR. MCCOY: Well, that's what I -- 14 that's basically what I had in mind. But, like I 15 said, I don't want to waste any more time, so let's 16 ignore -- we'll ignore that comment and move on.</p> <p>17 Q (By Mr. Lee) All right. Sir, do you have any 18 evidence that my client destroyed documents?</p> <p>19 A No.</p> <p>20 Q Okay. So you're making that accusation without any 21 evidence?</p> <p>22 A Well, I'm -- I'm trying to recall something that I 23 read years ago regarding the asbestos manufacturers 24 and the -- and what they did with their -- in the 25 process of developing and distributing asbestos and</p>	<p>1 record until he calls back?</p> <p>2 MR. LEE: Sure.</p> <p>3 THE VIDEOGRAPHER: Going off record.</p> <p>4 Time now is 3:45 p.m.</p> <p>5 (Pause in proceedings from 6 3:45 p.m. to 3:52 p.m.)</p> <p>7</p> <p>8 THE VIDEOGRAPHER: Back on record.</p> <p>9 Time now is 3:52 p.m.</p> <p>10 MR. LEE: Bob, I think you wanted 11 the portion of your statement that you were able to 12 make before the phone cut out read back to you; is 13 that correct?</p> <p>14 MR. MCCOY: Right. That's all.</p> <p>15 Just where I was talking.</p> <p>16 (Page 221, Lines 7 through 9, 17 read by the reporter.)</p> <p>18 THE REPORTER: And that's where it 19 cuts out.</p> <p>20 MR. MCCOY: Yes. This is the 21 questioning on the prior proceeding. I can't 22 remember what actually we were questioning about. 23 Was that what it was, Josh? We were talking about 24 that prior proceeding still?</p> <p>25 MR. LEE: I'm not sure what you're</p>
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<p>1 the things that they hid and destroyed regarding the 2 lethality of their product when they sent it out.</p> <p>3 That was -- you know, that was -- that was years ago, 4 probably in law school that I came up with that. But 5 I remember it to be a very distasteful period --</p> <p>6 Q Do you know how many --</p> <p>7 A -- to the best of my recollection.</p> <p>8 Q Do you know how many companies manufactured asbestos- 9 containing products?</p> <p>10 A No, I do not.</p> <p>11 Q Were you aware it's over 3,000 companies?</p> <p>12 A No, I do not.</p> <p>13 Q Do you know how many asbestos-containing products 14 were on the market over the years?</p> <p>15 A No, I do not.</p> <p>16 Q When you say "asbestos companies," sir --</p> <p>17 MR. MCCOY: This, again -- Josh, 18 let me again object to the relevance of this line of 19 questioning. I mean, we will stipulate --</p> <p>20 MR. LEE: Are you still there, Bob?</p> <p>21 THE WITNESS: Doesn't sound like 22 it.</p> <p>23 MR. LEE: We'll let him call back 24 in and finish his statement.</p> <p>25 THE WITNESS: Should we go off the</p>	<p>1 objecting to, Bob, so...(Pause.)</p> <p>2 MR. MCCOY: Yeah. Well, just read 3 me back his question before that, then. I'll have to 4 have that too.</p> <p>5 THE REPORTER: The last question 6 was a partial question.</p> <p>7 (Question on Page 221, Line 6, 8 read by the reporter.)</p> <p>9 MR. MCCOY: Right. Yeah. Okay.</p> <p>10 So I understand now. Yeah. So my objection is that, 11 again, we're outside the scope of the relevance here, 12 you know, as to, you know, I'll stipulate that Gary 13 Suoja is not a witness as to the conduct of 14 Owens-Illinois as to other than what he knows about 15 the Badger Ordnance site. And that's, again, far 16 outside the relevance of what his knowledge is and 17 what the purpose of this deposition was for, for the 18 enforcement of the settlement agreement.</p> <p>19 So, once again, you know, we're here longer than 20 we need to be for that very reason. Okay. Go ahead.</p> <p>21 MR. LEE: So, Bob, I think I'll 22 agree to your stipulation. But I want to make sure 23 we're clear. Then I want to ask how far that 24 stipulation goes so that there's no disagreement 25 later. As I agree it, you're stipulating that</p>

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<p>1 Mr. Suoja won't offer any testimony with regard to 2 the conduct of Owens-Illinois; is that right?</p> <p>3 MR. MCCOY: Yes. Except, like I 4 said, as to his knowledge of what went on at Badger 5 Ordnance with his father.</p> <p>6 MR. LEE: Okay. So will you agree 7 to the entry of a motion in limine regarding any 8 stipu -- regarding any testimony from Mr. Suoja about 9 asbestos companies destroying documents or engaging 10 in any conduct to hide information with regard to the 11 effects of asbestos?</p> <p>12 MR. MCCOY: Is that all right with 13 you, Gary?</p> <p>14 THE WITNESS: That's not all right. 15 But I'll agree to it.</p> <p>16 MR. MCCOY: Okay. Then it's agreed 17 to.</p> <p>18 THE WITNESS: And I -- I say that 19 because it's true. But I won't testify to it.</p> <p>20 MR. LEE: Okay. As long as we're 21 agreed that there will be no testimony about that 22 from Mr. Suoja, I will -- and the only reason I went 23 there, Bob, is because he inserted that issue into 24 this deposition -- I will not ask any more questions 25 about that. All right?</p>	<p>1 regard to Badger Ordnance. Will you stipulate that 2 he won't testify about Owens-Illinois and Badger 3 Ordnance in any way?</p> <p>4 MR. MCCOY: Mean --</p> <p>5 THE WITNESS: How -- how could I do 6 that?</p> <p>7 MR. LEE: Okay. Let me -- that's 8 fair, Mr. Suoja.</p> <p>9 MR. MCCOY: All right. Just -- you 10 know, if you want to ask questions on it, Josh, 11 again, I don't see the relevance, but go ahead.</p> <p>12 MR. LEE: I don't want to if I 13 don't have to. He's not going to be a product 14 identification witness at least with regard to 15 Owens-Illinois at Badger Ordnance; is that correct?</p> <p>16 MR. MCCOY: I think our stipulation 17 covered that, yes.</p> <p>18 MR. LEE: Okay.</p> <p>19 MR. MCCOY: Not as to the use of 20 Owens-Illinois Kaylo. He's a product identification 21 witness as to his father being there at Badger 22 Ordnance, okay?</p> <p>23 MR. LEE: Okay. And he's not -- 24 the thing that's throwing me for a loop there, Bob, 25 is that --</p>
<p style="text-align: center;">Page 223</p> <p>1 MR. MCCOY: Okay. Let's move on.</p> <p>2 Q (By Mr. Lee) All right. I do want to follow up on 3 something Mr. McCoy just inserted, though, with 4 regard to Badger Ordnance. You have no personal 5 knowledge about Owens-Illinois or any of its products 6 ever being at Badger Ordnance, do you?</p> <p>7 A No. My -- my knowledge about Badger Ordnance is 8 having, you know, my dad and my parents talk about 9 it, because it -- it was apparently a big-deal job 10 that was going on. So I knew the name. And the one 11 occasion when I drove back with my dad, just the two 12 of us in -- in the Pontiac coming back.</p> <p>13 And I don't know exactly the year, but it was -- 14 you know, dad was pointing out what he did and up on 15 that high line, as they called it, and was very proud 16 of it. And I just remember it being a long, straight 17 road and this thing going up and dad talking about 18 it. And he did that on occasion about his work, 19 because he was proud of what he did.</p> <p>20 Q So, and I'm just --</p> <p>21 MR. MCCOY: So we'll stipulate 22 that he's not going to be testifying that 23 Owens-Illinois Kaylo was used at Badger Ordnance.</p> <p>24 MR. LEE: Okay. And even farther, 25 Bob, you talked about Owens-Illinois's conduct with</p>	<p style="text-align: center;">Page 225</p> <p>1 MR. MCCOY: Okay. So let's -- he's 2 given you his testimony, what he knows about Badger 3 Ordnance. You want to ask him if he knows any more 4 about Badger Ordnance and then we'll move on from 5 there?</p> <p>6 MR. LEE: No. I'm actually trying 7 to see if we're on the same page, Bob, because I'm 8 thinking --</p> <p>9 MR. MCCOY: I'm not going to 10 attempt any more stipulations --</p> <p>11 MR. LEE: Okay.</p> <p>12 MR. MCCOY: -- with Kaylo.</p> <p>13 MR. LEE: That's fine.</p> <p>14 MR. MCCOY: Okay? You want to ask 15 him what else he knows about Badger Ordnance, he'll 16 answer it for you.</p> <p>17 MR. LEE: All right. Thanks, Bob.</p> <p>18 Q (By Mr. Lee) Mr. Suoja, you don't know anything 19 about any conduct of Owens-Illinois with regard to 20 Badger Ordnance, do you?</p> <p>21 A I -- I did not know Owens-Illinois provided product 22 at Badger Ordnance.</p> <p>23 Q You still don't know whether Owens-Illinois provided 24 product --</p> <p>25 A I don't know that. I don't have any firsthand</p>

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1 knowledge of it. 2 Q I'm sorry, sir. I'm going to need to finish my 3 question. 4 Do you know whether Owens-Illinois ever provided 5 any products to Badger Ordnance? 6 A No, I don't. 7 Q Okay. And so you wouldn't be able to testify with 8 regard to any conduct of Owens-Illinois related to 9 Badger Ordnance, would you? 10 A No. When I had information on Badger Ordnance, I 11 knew nothing about Owens-Illinois and its 12 relationship to Badger Ordnance. 13 Q Okay. Your father worked on a lot of different job 14 sites, didn't he? 15 A He did. Usually they were -- in almost all 16 instances, they tended to be large, more expensive 17 projects. Because having -- having pipes insulated, 18 having boilers insulated was a costly process. So 19 those tended to be larger, government-financed 20 projects as a general rule. 21 Q So your father worked on a lot of projects that were 22 financed and overseen by the government? 23 A Well, some government. Yeah, either state, county, 24 so on. Power plants, Badger Ordnance. You know, if 25 not a -- if not a government project, they were, you	1 And it -- it was surprising. She -- she had a 2 very good memory of where his jobs were, because 3 typically he was away from home. And it wasn't the 4 case until later that he was home on a regular basis. 5 Typically he'd be gone for a week or a good portion 6 of a week. But there were a few jobs that he had 7 that I remembered that my mother hadn't, you know, 8 until we kind of talked things through. So those 9 were -- you know, that's kind of how we ended up on 10 things. 11 The dates that she came up with, you know, were -- 12 were a lot of them were related to her and things 13 that she -- she remembered or, you know, had 14 information that she recalled. And that's kind of 15 how we went through and developed up the jobs that 16 he'd been working on. 17 Q Do you know whether your father worked at Greenlee 18 Tool? 19 A If he would have done work there, I don't know. I 20 don't recall that one specifically. But Greenlee 21 probably would have been a probable. Greenlee was 22 one of the bigger industrial plants in the Rockford 23 area. I almost said Seattle. In -- world of 24 difference between Rockford and Seattle. 25 Q So you don't know whether he worked there or not?
1 know, directly working with the government. Swedish 2 Hospital. Large corporations, which I consider 3 Chicklet to be. I remember that. I knew he worked 4 at power plants at various locations. He worked at 5 hospitals at various locations, also large 6 corporations. And -- and I generally am aware of him 7 going around to those -- those jobs. 8 Q How would you possibly know what years your father 9 worked at various job sites? 10 A Some of it was from general recollection, such as the 11 Badger Ordnance. That was -- that one was really 12 unusual, because it was an unusual situation. Some 13 of them, I kind of can relate to, going back, you 14 know, as to, you know, approximately what time it 15 was. And those are things that, you know, from my 16 direct knowledge or direct recollection, I can go 17 through. 18 And then there were -- when a series of 19 interrogatories came down, I remember helping my 20 mother. And the two of us were going down through 21 the interrogatories over the phone as to what jobs 22 dad had worked on. And she would remember some, and 23 then occasionally I would remember some. And we'd 24 discuss them and, you know, get our understanding of 25 when things happened.	1 A I wouldn't doubt that he did work there. And if -- 2 if my mother and I had gone through a list, she would 3 have known, you know, specifically, and it's quite 4 possible he did. 5 Q Okay. And I'm just -- so it's a little unclear where 6 your testimony may end in this case. And so I'm just 7 trying to get from your recollection, do you know 8 from your personal knowledge whether your father 9 worked at Greenlee Tool in Rockford? 10 A No, I cannot say specifically that I recall that 11 right now. 12 Q Okay. Do you know whether your father worked at 13 Kelsey-Hayes Gunite Division? 14 A I recall the name, but I don't recall when. 15 Q Okay. So you don't know what years he worked there? 16 A No. No. That would have been -- those would have 17 been things that would have come from my mother. 18 Q Okay. 19 A Discussing them with her. 20 Q Do you know if your father worked at Litton/Gardner 21 machine shop? 22 A That I cannot tell you. That name does not ring a 23 bell with me. 24 Q Do you know if your father worked at Sundstrand? 25 A Yes.

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<p>1 Q Okay. Do you know what years?</p> <p>2 A No, I don't recall the years. But it would have</p> <p>3 been -- I think he worked at Sundstrand off and on</p> <p>4 over time. Because Sundstrand was a major</p> <p>5 manufacturer, and they were doing something</p> <p>6 important, so he was there off and on. That was a</p> <p>7 job that was done quite a bit. So Sundstrand was</p> <p>8 prominent in discussions at home as to where dad was.</p> <p>9 Q Okay. Other than the affidavit that we talked about</p> <p>10 in Exhibit -- do you still have it in front of you,</p> <p>11 sir? It was the exhibit that -- the affidavit that</p> <p>12 you signed.</p> <p>13 A There are several here. Declara -- well, that's</p> <p>14 Robert McCoy. Declaration of Gary Suoja. This is on</p> <p>15 settlement?</p> <p>16 Q Yes. It's Exhibit 3; is that right?</p> <p>17 A This is Exhibit 5. Exhibit 3?</p> <p>18 Q 5, okay.</p> <p>19 A I have 4 and 4A.</p> <p>20 Q Have you ever signed any affidavits relating to your</p> <p>21 father's asbestos exposure?</p> <p>22 A I don't recall.</p> <p>23 Q Have you ever verified, for the purposes of obtaining</p> <p>24 settlement with any party, your father's asbestos</p> <p>25 exposure?</p>	<p>1 Q Okay. You wouldn't be able to sign an affidavit that</p> <p>2 he was?</p> <p>3 A I wouldn't be able to say that he was.</p> <p>4 Q Okay.</p> <p>5 A But he did work in the industry where they provided</p> <p>6 product, so...(Pause.)</p> <p>7 Q Do you know what products National Gypsum made?</p> <p>8 A No.</p> <p>9 Q Do you know if they made products that your father</p> <p>10 would have used?</p> <p>11 A I do not. But if they provided product in the</p> <p>12 insulating, asbestos insulation business, then the</p> <p>13 odds are he would have used them.</p> <p>14 Q Do you know if insulators had favorite products,</p> <p>15 types of products, or anything like that?</p> <p>16 A No, I don't know. Based on my knowledge of how</p> <p>17 contracts and construction contracts work, they're</p> <p>18 specified either by an architect or an engineer and</p> <p>19 away you go. You get somebody's favorite product,</p> <p>20 and that's what you have to use, because they -- it's</p> <p>21 directed by the contract.</p> <p>22 Q So you wouldn't know one way or the other whether</p> <p>23 your father was ever exposed to a National Gypsum</p> <p>24 product; is that right?</p> <p>25 A That's correct. I would not specifically know.</p>
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<p>1 A When you say verified asbestos exposure, what do you</p> <p>2 mean?</p> <p>3 Q Have you ever signed an affidavit saying, My father</p> <p>4 was exposed to asbestos at this location?</p> <p>5 A I don't -- I don't recall. I'm -- I'm not sure that</p> <p>6 I could. But I don't recall doing that.</p> <p>7 Q Have you ever signed an affidavit in support of</p> <p>8 obtaining a settlement that your father was exposed</p> <p>9 to a product from a specific manufacturer?</p> <p>10 A Not that I recall.</p> <p>11 Q And as we discussed earlier today, you would not sign</p> <p>12 such an affidavit because you don't have that</p> <p>13 knowledge, right?</p> <p>14 A I don't have that knowledge right now. I'm -- you</p> <p>15 know, as I said, it's been 20 years. And it's</p> <p>16 possible I might have remembered something before and</p> <p>17 I've since forgotten it. But the answer is, right</p> <p>18 now, I don't have any such specific requirement or</p> <p>19 recollection. I do recall talking on the phone to</p> <p>20 doctors that were involved in doing the autopsy work</p> <p>21 and reporting that dad died of mesothelioma.</p> <p>22 Q Okay. Do you know whether your father was exposed to</p> <p>23 asbestos-containing products manufactured by National</p> <p>24 Gypsum Company?</p> <p>25 A I don't know.</p>	<p>1 Q Okay. Do you know whether your father was ever</p> <p>2 exposed to asbestos from a Johns Manville product?</p> <p>3 A Not specifically, no.</p> <p>4 Q Do you know whether your father was ever exposed to</p> <p>5 asbestos from an Owens Corning product?</p> <p>6 A Not specifically that I know of.</p> <p>7 Q Do you know whether your father was ever exposed to</p> <p>8 asbestos from a Pittsburgh Corning product?</p> <p>9 A Not specifically, no.</p> <p>10 Q Okay. Do you know whether your father was ever</p> <p>11 exposed to asbestos from an Owens-Illinois product?</p> <p>12 A Not specifically, no.</p> <p>13 Q Do you know whether your father was ever exposed to</p> <p>14 asbestos from a Garlock product?</p> <p>15 A No, not specifically. I wish I could ask him.</p> <p>16 MR. McCOY: Again, I'm just</p> <p>17 questioning the relevance of these questions. I</p> <p>18 mean, we've provided discovery responses, none of</p> <p>19 which identified Gary Suoja as a witness for any of</p> <p>20 these matters. So asking questions that he has not</p> <p>21 been identified as a witness for.</p> <p>22 MR. LEE: I agree, Bob. And some</p> <p>23 of these may go to credibility as well, on issues</p> <p>24 that the order addresses, particularly with regard to</p> <p>25 the signing of affidavits and the basis for those</p>

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<p>1 knowledge. So do you understand, Bob?</p> <p>2 MR. McCLOY: I understand what</p> <p>3 you're saying.</p> <p>4 MR. LEE: Okay. And you would</p> <p>5 agree that credibility of someone who signed an</p> <p>6 affidavit is always an issue that can be explored,</p> <p>7 right?</p> <p>8 MR. McCLOY: I don't know --</p> <p>9 MR. LEE: Okay.</p> <p>10 MR. McCLOY: -- one way or the</p> <p>11 other. I mean, that's an issue you can take up with</p> <p>12 the court. Like I said, we're here for the complete</p> <p>13 deposition.</p> <p>14 MR. LEE: Okay.</p> <p>15 Q (By Mr. Lee) Now, it's your testimony, right, sir,</p> <p>16 that you would never sign an affidavit that your</p> <p>17 lawyers presented to you without actually reading it</p> <p>18 and understanding what was being asked of you, right?</p> <p>19 A I -- I will read the affidavits that are presented to</p> <p>20 me before I sign them.</p> <p>21 Q And you would never sign an affidavit just for the</p> <p>22 purpose of obtaining a settlement when you didn't</p> <p>23 believe the underlying information was true and</p> <p>24 correct, right?</p> <p>25 A Yeah, to the best of my knowledge and belief.</p>	<p>1 A I do not know.</p> <p>2 Q Have you ever authorized settlements on behalf of</p> <p>3 your father's estate during a time in which you were</p> <p>4 not special administrator?</p> <p>5 A I wouldn't -- I wouldn't know.</p> <p>6 Q Okay. Do you think it's important before you act on</p> <p>7 behalf of an estate to know whether you have the</p> <p>8 authority to do so or not?</p> <p>9 A Well, I would -- I would assume that my lawyers are</p> <p>10 telling me that I'm authorized to sign if they</p> <p>11 present me with material. So to that extent, when I</p> <p>12 ask them if that's what's going on, then away we go.</p> <p>13 Q Okay. And I'm just -- I'm trying to figure out kind</p> <p>14 of the background here, sir. Because this is kind of</p> <p>15 an odd situation. Usually people know about the</p> <p>16 lawsuits that they've filed and what's going on in</p> <p>17 them. Here, you really don't have any information</p> <p>18 about this lawsuit over the last 20 years; is that</p> <p>19 right?</p> <p>20 A Now, I had much more information, you know, early on,</p> <p>21 generally, about my dad, where he worked, what</p> <p>22 was gone, where he worked, approximate times, talking</p> <p>23 to my mother and working up interrogatories and so</p> <p>24 on. Since that time, I've had very little knowledge,</p> <p>25 and it's mostly because things have been stretched</p>
<p style="text-align: center;">Page 235</p> <p>1 Q Okay. You would never sign an affidavit based on</p> <p>2 personal knowledge just because someone else told you</p> <p>3 that it was true, right?</p> <p>4 A Well, it depends. If it was somebody that I could</p> <p>5 rely on and -- and they were in that -- you know, in</p> <p>6 that work, I would. For example, if somebody asked</p> <p>7 me if my dad dies of mesothelioma, I didn't do the</p> <p>8 autopsy. I'm relying on what the doctors and so on</p> <p>9 have said. When I'm dealing with probate-type</p> <p>10 matters and signing documents, I'm relying on what my</p> <p>11 attorneys are telling me. And, you know, I don't see</p> <p>12 how you can operate any other way. That's -- that's</p> <p>13 how we make our living.</p> <p>14 Q Have you authorized Mike Cascino to make any other</p> <p>15 statements on behalf of your family?</p> <p>16 A No, I've not talked to Mike Cascino. I have</p> <p>17 authorized others at Cascino Vaughan to make</p> <p>18 settlements.</p> <p>19 Q Okay.</p> <p>20 A I've -- I've never talked to Mike Cascino, so I</p> <p>21 wouldn't know.</p> <p>22 Q Have you ever signed documents as special</p> <p>23 administrator of your father's estate at a time in</p> <p>24 which you were not actually the special administrator</p> <p>25 of your father's estate?</p>	<p style="text-align: center;">Page 237</p> <p>1 out so long.</p> <p>2 I mean, if I asked you about some of the cases</p> <p>3 you had 20 years ago, you'd be amazing, because you</p> <p>4 could remember bunches of things and you could go</p> <p>5 right down the line and remember them. I know you</p> <p>6 could, because I've been able to do that in the past.</p> <p>7 You're smarter than me.</p> <p>8 But then you'll think that you've done everything</p> <p>9 right, and somebody will come up and say, Well, what</p> <p>10 about this? And you go, I don't remember that at</p> <p>11 all. And it will happen more and more, especially</p> <p>12 as -- as you get older and as you see documents, you</p> <p>13 realize that really solid memory that you thought you</p> <p>14 had -- perhaps you do -- there are just gaps. You're</p> <p>15 busy. You do a lot of things. Some of the things</p> <p>16 you don't remember.</p> <p>17 Q And I get that. And that's not what I'm trying to</p> <p>18 get at. But one of the things that we're trying to</p> <p>19 figure out and one of the things that the court told</p> <p>20 us --</p> <p>21 A Mm-hmm.</p> <p>22 Q -- that we could inquire on is the prior litigation.</p> <p>23 And in discovery responses, the way that we've read</p> <p>24 them, is that you're the person who knows the most</p> <p>25 about that.</p>

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<p>1 A Well --</p> <p>2 Q And you don't seem to really know anything about it;</p> <p>3 is that right?</p> <p>4 A Well, I -- I signed off on the discovery responses.</p> <p>5 And I, to the best of my knowledge and belief,</p> <p>6 verified the information or got the information from</p> <p>7 a reliable source. And that source was either me or</p> <p>8 my mother or somebody that we thought was in -- you</p> <p>9 know, involved. Typically the lawyers. And that</p> <p>10 was -- that was a big process when we went through</p> <p>11 all of that initially. Do I remember everything we</p> <p>12 put in there? Oh, heavens, no. Did we verify it at</p> <p>13 the time? Absolutely.</p> <p>14 Q Okay. If you signed documents, though, after -- you</p> <p>15 know, a decade after your mother had passed away, you</p> <p>16 wouldn't have been able to consult her before signing</p> <p>17 those affidavits, right?</p> <p>18 A That's -- that's correct. That's how it works.</p> <p>19 Q Okay. Is there anybody else other than your mother</p> <p>20 that you've consulted with about your father's work</p> <p>21 history?</p> <p>22 A Oh, I had talked to my brother some, because my</p> <p>23 brother worked in the asbestos trade for a while as</p> <p>24 well. And I think he was part of some of the things</p> <p>25 that we -- we'd talked about. Other than that, it</p>	<p>1 And so I'm guessing I was probably early in</p> <p>2 college or maybe somewhere in college when that</p> <p>3 occurred. So that would have been the mid '60s. So</p> <p>4 I'm pretty certain that was the end of my brother's</p> <p>5 working on asbestos at that time.</p> <p>6 Q Okay.</p> <p>7 A It's possible, little bit in Superior before he -- he</p> <p>8 got on with the police force. But I'm -- I don't</p> <p>9 think so. I think -- I think that was it. Sometime</p> <p>10 in the mid '60s was the end of it.</p> <p>11 Q Do you remember when he might have started working?</p> <p>12 If you know. If you don't, that's fine.</p> <p>13 A No, in my opinion, he never did. And at my -- as a</p> <p>14 matter of fact, I -- I made that comment at my</p> <p>15 mother's funeral as we were selecting a casket for</p> <p>16 her. All of us were gathered around, and he knew the</p> <p>17 funeral home director. And instead of requiring a</p> <p>18 deposit, he says, Well, I know Smokey here, and so</p> <p>19 I'm sure he's good for it. And if he's not, I'll</p> <p>20 just put him to work. And my comment was, You'd be</p> <p>21 the first. And that kind of -- that kind of broke</p> <p>22 the house down.</p> <p>23 But -- so I'm guessing -- and it's kind of a</p> <p>24 guess -- he might have started that work in, oh,</p> <p>25 maybe 1960. Maybe something like that. My dad might</p>
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<p>1 was primarily the attorneys and the information that</p> <p>2 had been gathered and the prior interrogatories and</p> <p>3 information gathered on my dad's claims.</p> <p>4 Q Okay. Do you know when your brother first started</p> <p>5 working with your father or working as an insulator?</p> <p>6 A No.</p> <p>7 Q Was it in the 1960s, 1950s, 19 -- wouldn't have been</p> <p>8 in the 1940s. He wouldn't have been old enough,</p> <p>9 correct?</p> <p>10 A Well, he -- he ended up retiring as a cop up in</p> <p>11 Superior. So he was not the most industrious guy.</p> <p>12 And I'll say that generally with regard to police</p> <p>13 officers. I'm trying to remember when he moved up</p> <p>14 there. Because once he moved from Rockford to</p> <p>15 Superior, he didn't work in the industry anymore.</p> <p>16 And his daughters were both young, but they were</p> <p>17 alive.</p> <p>18 And I just don't know when that was. And it</p> <p>19 was -- it was probably after I graduated from high</p> <p>20 school. And I know they drafted me to help load up</p> <p>21 this -- this "Beverly Hillbillies" type of trailer</p> <p>22 and something behind it. They probably had two rigs</p> <p>23 that ran about 70 feet, you know, hanging behind</p> <p>24 whatever they were hauling. And I had to help them</p> <p>25 move that.</p>	<p>1 have gotten him on to do some stuff. And he did a</p> <p>2 number of odd jobs, and I just -- I just knew that he</p> <p>3 didn't have any money. And I'm the one that always</p> <p>4 had to cough up the money when something would occur.</p> <p>5 It's been the story of my life so far.</p> <p>6 Q Are you the one who generally takes care of your</p> <p>7 family?</p> <p>8 A Well, to the -- to the extent is, I'm very close with</p> <p>9 my children, or at least I feel I'm close with my</p> <p>10 children. Of course, they've moved all over the</p> <p>11 place. I am close with my sister Sue. I am not as</p> <p>12 close with Kimberly. And so in that regard, I try to</p> <p>13 help out where I can.</p> <p>14 So I -- I don't worry about my -- my daughter and</p> <p>15 my son too much anymore. I've got -- my oldest boy</p> <p>16 works for Microsoft out in the Boston area. My</p> <p>17 daughter -- or my son-in-law works at Apple, in their</p> <p>18 product development. So he's in China right now,</p> <p>19 because that's where he spends a good portion of his</p> <p>20 time. So I don't worry about them too much.</p> <p>21 My youngest son, however, got caught in the --</p> <p>22 the Great Recession and finished school. And the</p> <p>23 industry he was trying to go into came close to</p> <p>24 disappearing. And so he's been -- he's been</p> <p>25 scrambling.</p>

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<p>1 Q My understanding is your father got sick in 1996; is 2 that right? And if you don't remember the date, we 3 can say late '90s?</p> <p>4 A That's -- that's -- I don't think that that's quite 5 accurate.</p> <p>6 Q Okay.</p> <p>7 A I was there at their 50th wedding anniversary, and 8 dad was looking like he was aging. You know, my dad 9 was a very vigorous guy, and he was -- you know, even 10 when he had trouble seeing. I can remember coming up 11 there to visit him. Says, Well, let's go to the 12 store. And, bang, off we'd go.</p> <p>13 And he'd have his little stick on the sidewalks, 14 and I'd be -- I'd be kind of pushing, you know. 15 Overweight and out of shape, I'd be pushing to keep 16 up with him and warning him where we had frost even, 17 so on. And he'd be there with a stick, and we're off 18 to this little store. And -- and he'd be -- you 19 know, he'd get something. He knew the people there. 20 He knew the change. We'd go.</p> <p>21 And, you know, as I said, I had some -- I have 22 some pictures here of him. This -- these were 23 primarily -- Bob, should I put these in as exhibits? 24 I made copies of them because I don't want to lose 25 the originals.</p>	<p>1 (Exhibit No. 11 marked for 2 identification.)</p> <p>3 Q (By Mr. Lee) I think we've marked now the pictures 4 that you've brought with you today --</p> <p>5 A Yeah.</p> <p>6 Q -- as Group Exhibit 11; is that right?</p> <p>7 A That's -- that's correct.</p> <p>8 Q Let me go through them with you, just --</p> <p>9 A Okay.</p> <p>10 Q -- so we can identify them. You've brought, and so 11 Mr. McCoy knows --</p> <p>12 A This -- this is a black-and-white photograph of my 13 parents at their wedding.</p> <p>14 MR. LEE: Bob, just so that you're 15 clear, I think this is the same picture that Kimberly 16 brought with her --</p> <p>17 THE WITNESS: Probably.</p> <p>18 MR. LEE: -- to her deposition. It 19 looks like the kids may all have a picture.</p> <p>20 THE WITNESS: Yeah. I think I have 21 a copy and somebody else has the original on that 22 one. All right.</p> <p>23 Then what I -- what I also have is, this was easy 24 for me to find. This is based on the -- my parents' 25 50th anniversary. And there's four photographs here.</p>
<p style="text-align: center;">Page 243</p> <p>1 MR. LEE: So these are not original 2 pictures?</p> <p>3 THE WITNESS: These are -- these 4 are copies that I made today, and they're color 5 copies of the original photographs which I have. 6 And they --</p> <p>7 MR. McCOY: Let's mark these, yes.</p> <p>8 THE WITNESS: Pardon?</p> <p>9 Q (By Mr. Lee) Let me ask you this, Mr. Suoja.</p> <p>10 A Yeah.</p> <p>11 Q Which will inform whether we should mark them. Are 12 these pictures that you might use if you're a witness 13 at trial to explain how your family operated and your 14 father's history?</p> <p>15 A They -- they are.</p> <p>16 Q Okay. We should mark those as exhibits today.</p> <p>17 A Okay. Let's mark those as an exhibit. We have two 18 others that we can mark as exhibits. I didn't bring 19 all of them, because I didn't go through everything.</p> <p>20 I'm a guy, and I don't organize pictures properly.</p> <p>21 Q That's fine. Let's go ahead and mark them as a group 22 exhibit. Be easier.</p> <p>23 A Okay.</p> <p>24 MR. LEE: I think we're on 11; is 25 that right?</p>	<p style="text-align: center;">Page 245</p> <p>1 And in the upper left, we are -- this -- the house 2 that -- that we're seeing here in the -- in the upper 3 left, that is my -- at my brother's house, Smokey and 4 Marsha. That's Kimberly, my sister, and then my dad.</p> <p>5 Now, what I -- what I kind of notice about this 6 is dad's happy and he's smiling, but he -- he seems 7 to me to be aging -- this is in '93 -- you know, 8 pretty -- pretty rapidly. And this is a picture of 9 my dad down below in the bottom left. This is my 10 dad, my mother, and my Grandma Dalbec. This is my 11 mother's mother, Agnes.</p> <p>12 And then on the -- on the bottom right, this 13 always gets me about dad. It's my brother Smokey is 14 here on the left. As you can see, he's kind of 15 trying to peek at my dad's cards. My dad was playing 16 a little slow. He had cards that he could, you know, 17 feel to determine what they are, and you can see 18 we're playing cribbage. This is Suzie's wife [sic] 19 Jerry, and then the big fat guy here is me.</p> <p>20 And then up above here, in the upper right-hand 21 corner, dad had downstairs in the basement -- it was 22 a very small house. You see the wall, and the guy 23 who took the picture pretty much is up against the 24 wall. And that's me pouring drinks. And this is 25 Uncle Archie. This is Bernard Auberg. That's the</p>

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<p>1 one that had the GM dealerships up in Withee and 2 Thorp. My dad. And I don't know who the fourth guy 3 is. I just -- I blanked. I don't recognize him 4 right now.</p> <p>5 But you can -- you can kind of see that dad 6 was -- you know, he enjoyed playing cards and 7 cribbage. He was -- had terrible luck at cards, 8 though. Just, it was terrible. It used to be funny, 9 he was so terrible. And my brother was unusually 10 lucky. Not good. He was lucky at playing cards. As 11 you can see, you know, that was a lot of fun. But my 12 dad wasn't yet 70. And he was really a very vigorous 13 guy.</p> <p>14 And then on the third page, I have two pictures 15 kind of trying to give you an idea of who my dad was. 16 One of them was just -- I think this was a Polaroid 17 that I have. This was taken in 1970 when I first was 18 at Fort Lewis and they came out here to see me. This 19 is my oldest son, who is -- he was born while I was 20 in basic training, which is why we went back to Wood 21 River, Illinois, with my wife.</p> <p>22 So as a matter of fact, the month he was born, 23 after the Army took out the money that I was getting 24 paid, I had \$69 and change left. And that was in 25 November of 1969. We were on bivouac the day he was</p>	<p>1 don't know for sure, but I'm presuming that this is 2 in Rapid City, South Dakota. The reason is, he is 3 with my cousin Ricky. He's my Aunt Lillian's boy. 4 He had diabetes. He died at 44. So Ricky was about 5 six to eight years younger than I was. So this was 6 probably in the early '90s, '91, '92.</p> <p>7 You can see dad climbing up -- this looks look 8 the Badlands, because I've been there with my 9 youngest son. So you can see my dad climbing around, 10 and he's got his stick. And I don't know if he posed 11 this or not. I wasn't there. Just one of the 12 pictures I got. But he was always close to his 13 family and to Aunty Lil, and I've got a bunch of 14 pictures of Aunty Lil. She and my dad almost looked 15 like twins even though they were separated by about 16 two years.</p> <p>17 And, you know, but -- but that's what he would 18 do. You know, he was not someone to sit around, 19 watch TV. He might watch a football game. But he 20 was always on the move. And he was proud of that.</p> <p>21 When he was -- when he was young and first 22 married, he was trying out for the Superior Blues, 23 which was a -- the equivalent of a AAA baseball team. 24 And he was confident he was going to make it, but my 25 mother objected so much to him being away after</p>
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<p>1 born. And I sat down and cried because I used to 2 make more money than that when I was in high school, 3 working in the grocery store.</p> <p>4 So, at any rate, this is -- again, I believe this 5 is Kimberly that came -- came with ma and dad. And 6 this is my dad. And this is how I always remember my 7 dad, is down on the floor playing with us.</p> <p>8 Q (By Mr. Lee) Do you want to take a second, sir?</p> <p>9 A Yeah.</p> <p>10 MR. LEE: Can we go off the record 11 for a second, please?</p> <p>12 THE VIDEOGRAPHER: Going off 13 record.</p> <p>14 MR. LEE: Before you start talking 15 again.</p> <p>16 THE VIDEOGRAPHER: Time is 4:28 p.m. 17 (Pause in proceedings from 18 4:28 p.m. to 4:29 p.m.)</p> <p>19</p> <p>20 THE VIDEOGRAPHER: Back on record. 21 Time now is 4:29 p.m.</p> <p>22 THE WITNESS: As you can see, he 23 was on the floor, playing with the kids. And that's 24 how I always remember him when I was younger. And 25 the other picture here is dad, and I'm presuming -- I</p>	<p>1 working that he finally gave it up. Now, I did at 2 one point find an old glove that, you know, looked to 3 me like it had been sitting in a dump or something, 4 but that was apparently his glove. He played third 5 base.</p> <p>6 I can also remember when I was 14, we went to his 7 high school reunion. And like so many other 8 situations, the people there remembered him, because 9 he -- not only did he play third base and played 10 well; some of the old-timers that were watching the 11 game, and I thought, Oh, they're going to invite me 12 in. You know, I'm a young kid. I'm a good baseball 13 player. I've been recruited by teams to play. My 14 dad was way better than I was.</p> <p>15 And -- and they -- they remembered him as that 16 guy who used to knock the ball way out -- not out of 17 the park, because there weren't any parks -- out into 18 the woods, because that's -- northern Illinois, 19 that's what there -- or Minnesota, that's what there 20 was. You'd finish mowing. The rest of it was woods.</p> <p>21 And then when he was -- and my mother related 22 this while he was there. When he was down in 23 Janesville at the school for the blind, which is 24 another place that he'd worked years before, he came 25 back 30 years later. They remembered him. I mean,</p>

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<p>1 he's just a Joe Schmo working at a job, and they 2 remembered him.</p> <p>3 Q (By Mr. Lee) So your dad was well liked by all the 4 people around him?</p> <p>5 A He was fun.</p> <p>6 Q And you can see that in these pictures. And that's 7 one of the reasons why you brought them today, right?</p> <p>8 A That's right.</p> <p>9 Q You wanted to give us an idea of who your dad was; is 10 that correct?</p> <p>11 A Well, of how -- how he was, my stories about who he 12 was. The pictures are kind of showing a bit of where 13 he was going. Because he should not have, in my 14 opinion -- now, you know, I'm 70. Dad wasn't this 15 age, you know, when these -- when these pictures were 16 taken, or he was just about turning 70. I guess they 17 were taken in '93. Yeah, so he would have been just 18 reaching 70. And I'm -- you know, I'm looking at 19 him, and I'm going, you know -- and this is kind of 20 in retrospect, granted.</p> <p>21 Q Mm-hmm.</p> <p>22 A But I'm going, How did he -- you know, as I look at 23 him now, he's so old. And I look at myself, and I 24 say, Something is -- something's wrong here. I don't 25 feel like I'm, you know, all that old. But I look at</p>	<p>1 they had a German shepherd that they'd feed beer to. 2 It's -- it was kind of ridiculous. But he ended up 3 passing away of cancer.</p> <p>4 And this was way back, you know, before -- before 5 I even knew much about any of this. And dad -- dad 6 was -- testified. And he was called on, on a number 7 of occasions to testify in these cases. So, you 8 know, and I was hoping it was never going to hit him, 9 but I'm -- I'm beginning to think he knew.</p> <p>10 Q So here's a question: You knew that your dad had 11 testified in a number of cases. Do you know who -- 12 who the law firms were for any of those cases?</p> <p>13 A No. No, I don't have -- I don't have any idea. And -- 14 and it was -- you know, it was just in passing. I 15 knew that these guys had visited and had come over to 16 see us, and they had their beer-swilling dog. I 17 know, you know, that he had passed on with cancer, 18 and dad had gone to a trial and testified. And I 19 knew that he did it for other people, because other 20 people counted on him. They liked him.</p> <p>21 Q Sure. First of all, thank you for bringing these 22 pictures. I think it's -- you know, helps you tell 23 your story. So thank you for bringing them. And it 24 helps you tell your dad's story.</p> <p>25 I had a couple of questions about these pictures.</p>
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<p>1 him, and I can say, Wow, he's -- you know, he's 2 older.</p> <p>3 And -- and then I was there in '92. I was there 4 again in '93. And then I didn't come back till '96. 5 And when I got back in '96, in August of '96, there 6 was something wrong. You know, I kind of knew that. 7 And we always ended up spending time together 8 talking. And he was talking about having, you know, 9 difficulties. And, you know, you know, and it was 10 mostly related to his -- his bowels. And I wanted to 11 take him to the hospital, and he just -- or to the 12 doctors. And he said, no, he's got an appointment, 13 and, you know, mother would take him.</p> <p>14 And I said, She'll skip this, or something. Then 15 he said, No, no, we'll go. Don't -- don't worry 16 about it. Don't worry about it. You know, he knew 17 something was wrong. You know, he'd -- over the 18 years, he had testified in -- in these cases. And, 19 you know, I didn't know individual cases, what ones. 20 And I just know that he talked about going to 21 so-and-so's trial. He was -- he was there about 22 where he'd worked and so on.</p> <p>23 And one of the friends -- one of the guys that he 24 had worked with eventually died of -- of cancer. And 25 this guy used to drink a lot of beer. They had --</p>	<p>1 On the second page, which is the picture -- the four 2 color pictures.</p> <p>3 A Uh-huh.</p> <p>4 Q The one in the top left is your sisters and your dad, 5 right?</p> <p>6 A That's correct.</p> <p>7 Q Okay. And, or one is your sister-in-law, one is your 8 sister Kimberly, and one is your dad?</p> <p>9 A No. No. Those -- those were Kimberly and my sister 10 Sue.</p> <p>11 Q Okay.</p> <p>12 A And that was at Sue's house.</p> <p>13 Q Okay. This is at Sue's house. Your dad is wearing a 14 "Best Dad on Earth" sweatshirt, right?</p> <p>15 A That's right.</p> <p>16 Q That one you said was taken in '93; is that correct?</p> <p>17 A I believe that was in -- in '93. Now, I -- yeah.</p> <p>18 Q There's four pictures on these -- this page. Are 19 these all pictures from 1993?</p> <p>20 A I believe they're all from 1993.</p> <p>21 Q And then there's another picture, two pictures on the 22 third page that you brought.</p> <p>23 A Yeah.</p> <p>24 Q One is the Polaroid of your son on your dad's back?</p> <p>25 A That's right. And that was 1970.</p>

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<p>1 Q 1970. And then the one that I have a question on, 2 I'm trying to get the parameters of all -- 3 A Yeah. 4 Q -- of these. The one with your cousin with your dad 5 standing in the rocks, what year do you think that 6 is? 7 A Yeah, with my cousin Ricky. Because -- because he 8 died of a heart attack at 44, I -- I am pretty 9 certain that that was taken prior to 1994. 10 Q Okay. 11 A And the reason is just because of the difference in 12 our age. In '94, I turned 50, and -- and he was 13 younger, so he...(Pause.) 14 Q But you don't know whether this is 1993, 1990, in the 15 '80s? 16 A No. No. It was in the -- it was in the early '90s. 17 Q Okay. 18 A And -- and Ricky was gone before that, so...(Pause.) 19 Q Okay. And we know when the picture of your parents' 20 wedding was taken? 21 A Yes. I wasn't there, but...(Pause.) 22 Q But we got a good sense of when that is. 23 A Yes. One of the things that I would testify to is 24 this picture of my parents at their wedding. 25 Q Yeah.</p>	<p>1 back till '96. Although, you know, I'd call and I'd -- 2 well, my mother would say, Dad's not feeling good. 3 And I'm -- you know, what do I know? But in '96, it 4 was -- it was quite clear that he knew what was going 5 on. 6 Q So your dad had some pretty severe diabetes; is that 7 right? 8 A Yes. My dad had diabetes that -- you know, that 9 couldn't be controlled except with insulin. 10 Q And, in fact, that's the reason why he had to retire, 11 was his diabetes got so bad, he was no longer able to 12 work? 13 A No, not work. He -- he still would work. You 14 couldn't stop him from working. His problem was, he 15 couldn't see at night to drive. 16 Q Okay. 17 A So you're in -- you're in Wisconsin, and, you know, 18 once -- once the fall comes, you're down to eight 19 hours of daylight. So how's he going to get there? 20 So he just couldn't see enough. And even when you 21 see, you know, the pictures -- and there's probably 22 other pictures you saw of him -- he could get around 23 pretty well for being blind. But it wasn't, you 24 know, like everything went black. 25 And I only know this because I talked to him</p>
<p style="text-align: center;">Page 255</p> <p>1 A Even though I wasn't personally there and don't have 2 firsthand knowledge. 3 Q I get that. Sir, you brought a manila folder with 4 you today. Are there other documents that you 5 brought to assist with your testimony today? 6 A No. These are -- 7 Q What else is in that folder? 8 A These are other -- other items that I have received 9 from -- from Bob, and then notes to myself, notice of 10 the deposition. 11 Q Okay. 12 A And a yellow pad that I've made some notes on. 13 Q All right. So I started -- before you pulled the 14 pictures out, I started asking you when your father 15 got sick. And you said you thought it was coming for 16 a while? 17 A Yeah. But I don't know how long. Because, you know, 18 it'd been '93 and I was -- I was noticing, you know, 19 at the 50th that he wasn't -- he wasn't as chipper as 20 he -- he was. And if you knew him, he's just full of 21 weird jokes and, you know, and the babble back and 22 forth and having fun with everyone. 23 And in '93, there was less. And I go, Oh, God, 24 he's been married 50 years. That's probably it. 25 And, you know, I didn't do more. Then I didn't get</p>	<p style="text-align: center;">Page 257</p> <p>1 about this. When I was at Illinois, I worked with 2 the rehab students when I was a counselor in the 3 dorms. What he had is, it -- it was -- was like 4 the -- the -- the views became fuzzy and you started 5 going to not a sharp color and it began just to fade 6 into fuzzy lights and grays, and that's where his 7 problem came. 8 Q And so let me rephrase that a little bit, because I 9 think we're talking about the same thing. His 10 eyesight problems were caused by his diabetes? 11 A That's -- to my knowledge, that's the case. 12 Q And so ultimately he wasn't able to work any longer 13 because of the issues that arose from his diabetes? 14 A That's correct. But to make it very perfectly 15 clear -- 16 Q Yeah. 17 A -- the only item related to his not working was his 18 inability to see at night to drive, because he 19 couldn't get to and from work, because he'd be 20 driving in the dark. So he was physically capable of 21 working and would have wanted to. And he did relate 22 to me that he would have. But he just couldn't see 23 anymore, and that's why he retired. 24 Q Okay. So let me rephrase the first question that 25 kind of got us here. Looking at the medical records,</p>

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<p>1 so I -- there's not a documentation of what was 2 going on with your father in '93, '94, '95. In the 3 medical records, we see that he got sick, was 4 diagnosed in 1996; is that right?</p> <p>5 A I -- that's -- to the best of my knowledge, that's 6 it. If you've seen the medical records, you've seen 7 way more than I have.</p> <p>8 Q Okay. So if -- when I say your father got sick, the 9 first kind of notation in the medical records is, in 10 earlier '96, it took a while, and then he was 11 diagnosed later in 1996; is that correct?</p> <p>12 A That's correct.</p> <p>13 Q Okay. So your father got sick in 1996. Were you -- 14 did you come home at all after your father's 15 diagnosis?</p> <p>16 A Well, I -- I don't agree that he got sick in '96. 17 But once I -- once I heard -- and I think my 18 recollection of the sequence is, I left in late 19 August. September, he went to see the doctor 20 sometime, mid September. They scheduled him for an 21 exploratory operation sometime in October. They 22 discovered the mesothelioma, and they just sewed him 23 back up.</p> <p>24 And he went into -- I forgot what they did. I 25 think he stayed at the -- at the hospital or sort of</p>	<p>1 him until January 1. So I -- I just trundled my 2 daughter and son off to the airport so that they 3 could go back to Boston. I scheduled a plane for 4 myself, and I went back. Left on the 27th, I think, 5 the day after dad died when I got word. Not a good 6 Christmas.</p> <p>7 Q No, sir.</p> <p>8 So what I -- what wanted to ask is: You came 9 back -- between the time that your father was 10 diagnosed with mesothelioma and the time he passed 11 away, it was a few short months; is that right?</p> <p>12 A It was from August until the end of December.</p> <p>13 Q Okay. Between August and December, it sounds like 14 you came home a couple of times; is that right?</p> <p>15 A No. No. I was there in August, and then I didn't 16 come back until mid December.</p> <p>17 Q Okay. And what I was getting at is, you weren't 18 there for the majority of the course of his 19 treatment; is that right?</p> <p>20 A That's -- and we're talking about the time frame 21 August to December?</p> <p>22 Q Yes, sir.</p> <p>23 A Yeah. That's -- that's correct. I was not --</p> <p>24 Q Okay.</p> <p>25 A -- there during the majority of that time.</p>
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<p>1 at hospice, and he may have come home for a period. 2 And I remember talking to my mother about what was 3 going on and, you know, what the -- what the 4 prognosis was.</p> <p>5 And then he went into hospice, and then I came 6 back again. I was back for -- it would be just 7 before Christmas. I was having all of the kids and 8 everything coming back for Christmas. And so I came 9 back in mid December and just stayed until, like, 10 December 24th. Then I got back on a plane and came 11 back.</p> <p>12 Worst Christmas in the world. I think -- as a 13 matter of fact, I think I got home, unpacked, went 14 back to the airport to pick up my daughter and her 15 fiance, brought them home for Christmas. Hadn't -- 16 nothing was decorated. Christmas Day, or during that 17 period, my oldest boy was in Bellingham with his 18 wife, and a snow blizzard hit. And they almost 19 didn't make it to the house from -- their car hit a 20 snow pile. They almost didn't make it in. They were 21 snowed in for a week.</p> <p>22 My future son-in-law got a call from the family. 23 His mother had died of diabetes overnight. So I now 24 had to pack them up. And my youngest son at that 25 point, my ex-wife decided that she was going to keep</p>	<p>1 Q Okay. So from your own -- when I say from your own 2 personal knowledge, from stuff that you saw or 3 observed as opposed to what somebody told you, 4 between August and September you don't have 5 information regarding your dad's treatment?</p> <p>6 A Just -- just from the phone calls.</p> <p>7 Q Okay.</p> <p>8 A And believe me, there were -- there were plenty of 9 them. And -- and that, you know, was Kimberly and my 10 mother. A lot from my mother. Marsha, my brother's 11 wife. I doubt I heard from my brother very much.</p> <p>12 And then I would have my Aunt Ruth Ann. There was a 13 lot of discussion.</p> <p>14 Q And you understand, particularly being a lawyer, 15 trying to figure out what you observed as opposed to 16 what you were told, and --</p> <p>17 A Yeah, well, I can -- I can talk about what I saw and 18 our discussions in '96. Probably talking a little 19 bit to my dad on the phone, you know, in October, 20 because nobody knew, you know, until October when 21 that exploratory operation went. And then I spent a 22 good deal of time with my dad when I came back in -- 23 in December.</p> <p>24 Q And -- yep. And so I think we're on the same page, 25 but I'm trying to be clear.</p>

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<p>1 A Mm-hmm.</p> <p>2 Q You didn't --</p> <p>3 A Yeah.</p> <p>4 Q -- observe anything about your dad or his treatment</p> <p>5 physically. You weren't there to see it. You</p> <p>6 weren't there --</p> <p>7 A Yeah.</p> <p>8 Q -- to watch it?</p> <p>9 A During that period.</p> <p>10 Q Okay. That's all I was trying to get at.</p> <p>11 A Yeah. Yeah.</p> <p>12 Q So, okay. And that's not saying you didn't talk to</p> <p>13 your family or anything.</p> <p>14 A Yeah.</p> <p>15 Q That's not what I'm trying to get at. I'm just</p> <p>16 trying to see what you observed personally.</p> <p>17 A But, yeah, that's -- talking to your family, that's --</p> <p>18 I mean, that's what you do: How is everyone? How is</p> <p>19 so-and-so? And that's -- that's what you do.</p> <p>20 MR. LEE: Absolutely. I think,</p> <p>21 sir, unless Mr. McCoy has some questions, I don't</p> <p>22 have any more questions for you today.</p> <p>23 THE WITNESS: Mr. McCoy?</p> <p>24 MR. McCOY: Just a couple brief</p> <p>25 questions here.</p>	<p>1 Kimberly as a witness; is that correct?</p> <p>2 A I think I was --</p> <p>3 Q As a witness.</p> <p>4 A Yeah, I think I was talking about who might attend.</p> <p>5 And I -- I think I indicated to you that I only</p> <p>6 believe that Kimberly could attend, that the others</p> <p>7 just weren't physically capable of doing so.</p> <p>8 Q And just to clarify something on that, you and I have</p> <p>9 worked out that I would be the attorney representing</p> <p>10 Kimberly at her deposition; is that right?</p> <p>11 A Well, yeah, I -- when the notices went out and -- and</p> <p>12 you told me that Kimberly had been notified and that</p> <p>13 you were going to give her a call, I decided I'd give</p> <p>14 her a call first just to make sure she understood</p> <p>15 what was going on. So I -- I told her what was going</p> <p>16 on. I told her that you were representing us on</p> <p>17 dad's claim and that you'd be giving her a call and</p> <p>18 she should talk to you.</p> <p>19 And -- and then she was, Oh, jeez, it's going to</p> <p>20 be in Chicago. And I said, Don't worry. It'll be --</p> <p>21 I believe it was at your office. And I said, Bob</p> <p>22 will talk to you. He'll be there. Don't worry about</p> <p>23 it. He'll talk to you, and you can go ahead and --</p> <p>24 and tell what you know. And he'll call you pretty</p> <p>25 soon and talk to you about it.</p>
<p style="text-align: center;">Page 263</p> <p>1 THE WITNESS: I was afraid of that.</p> <p>2 MR. LEE: Lawyers always have</p> <p>3 follow-up.</p> <p>4 MR. McCOY: Just a second here.</p> <p>5 THE WITNESS: Are you still awake,</p> <p>6 John?</p> <p>7 THE REPORTER: (Nods head.)</p> <p>8 EXAMINATION</p> <p>9 BY MR. McCOY:</p> <p>10 Q Based on your interactions with your father before he</p> <p>11 passed away, Gary, did you -- do you have any belief</p> <p>12 about whether your father knew that he was going to</p> <p>13 be dying?</p> <p>14 A Well, at the time -- and this is in -- in August. At</p> <p>15 the time, I didn't know. I knew from talking to him</p> <p>16 that something was wrong. He didn't tell me what it</p> <p>17 was, and, you know, I didn't -- I didn't surmise.</p> <p>18 But in retrospect and after, you know, being there</p> <p>19 with him in December, I'm quite certain that he knew.</p> <p>20 I remember I was all up in arms about, they just</p> <p>21 sewed him up and didn't even try anything. But it</p> <p>22 didn't bother him at all. He knew.</p> <p>23 Q Now, on another topic, am I correct in saying, that</p> <p>24 during the communications about who might be a</p> <p>25 witness for the family, that you had identified</p>	<p style="text-align: center;">Page 265</p> <p>1 Q So Kimberly hadn't -- had said at her deposition that</p> <p>2 she had no agreement with me to be her lawyer. That</p> <p>3 would be a true statement, because that was just</p> <p>4 something that you and I have worked out and she</p> <p>5 understood you were handling, right?</p> <p>6 A Well, she's -- she's part of the -- as I saw it, it</p> <p>7 was part of the estate. And I told her you were</p> <p>8 representing us.</p> <p>9 MR. McCOY: Okay. Then I think</p> <p>10 that's all the questions I've got. Thanks.</p> <p>11 MR. LEE: I don't have anything</p> <p>12 more.</p> <p>13 THE VIDEOGRAPHER: This concludes</p> <p>14 the video deposition of Gary Suoja. Time now is</p> <p>15 4:53 p.m. Going off record.</p> <p>16 (Signature reserved.)</p> <p>17 (Deposition concluded at</p> <p>18 4:53 p.m.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 266</p> <p>1 STATE OF WASHINGTON) I, John M.S. Botelho, CCR, RPR, 2) ss a certified court reporter 3 County of Pierce) in the State of Washington, 4 do hereby certify: 5 6 That the foregoing deposition of GARY E. SUOJA was 7 taken before me and completed on June 26, 2015, and 8 thereafter was transcribed under my direction; that the 9 deposition is a full, true and complete transcript of the 10 testimony of said witness, including all questions, answers, objections, motions and exceptions; 11 That the witness, before examination, was by me duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved the right of signature; 12 That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of any such attorney or counsel and that I am not financially interested in the said action or the outcome thereof; 13 That I am herewith securely sealing the said deposition and promptly delivering the same to 14 Attorney Joshua D. Lee. 15 IN WITNESS WHEREOF, I have hereunto set my hand 16 this 9th day of July, 2015. 17 18 19 20 21 22 23 John M.S. Botelho, CCR, RPR 24 Certified Court Reporter No. 2976 25 (Certification expires 5/26/16.)</p>	<p style="text-align: right;">Page 268</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>ACKNOWLEDGMENT OF DEPONENT</p> <p>I, _____, do hereby certify that I have read the foregoing pages, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.</p> <hr/> <p>GARY E. SUOJA DATE</p> <p>Subscribed and sworn to before me this ____ day of _____, 20____. My commission expires: _____</p> <hr/> <p>Notary Public</p>
<p style="text-align: right;">Page 267</p> <p>1 - - - - - 2 E R R A T A 3 - - - - - 4 5 PAGE LINE CHANGE 6 _____ 7 REASON: _____ 8 _____ 9 REASON: _____ 10 _____ 11 REASON: _____ 12 _____ 13 REASON: _____ 14 _____ 15 REASON: _____ 16 _____ 17 REASON: _____ 18 _____ 19 REASON: _____ 20 _____ 21 REASON: _____ 22 _____ 23 REASON: _____ 24 _____ 25 REASON: _____</p>	